

MARCH 11, 2005

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FLOOR DEBATE

March 11, 2005 LB 57, 101, 250, 273, 312, 373, 382, 538
542, 548, 551, 589, 709, 716

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain today is Lynette Janssen, St. John's Lutheran Church, Otoe, Nebraska. That's Senator Heidemann's district, District 1. Lynette.

PASTOR JANSSEN: (Prayer offered.)

SENATOR CUDABACK: Thank you, Lynette, for being our chaplain of the day. We appreciate you being here. I call the forty-second day of the Ninety-Ninth Legislature, First Session, to order. Senators, please check in. (Visitor introduced.) Record please, Mr. Clerk.

CLERK: I have a quorum present, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Messages, reports, or announcements?

CLERK: Your Committee on Appropriations, chaired by Senator Don Pederson, reports LB 250 as indefinitely postponed; Health and Human Services Committee, chaired by Senator Jensen, reports LB 101 to General File with amendments, and LB 548 to General File with amendments; those reports all signed by their respective Chairs. Mr. President, priority bill designations: Senator Brashear, LB 538; Senator Cunningham, LB 273; Senator Jensen, LB 548; Senator Mines, LB 716; the Performance Audit Committee, LB 589; Senator Fischer, LB 373; Senator Connealy, LB 312; Senator Burling, LB 542; Senator Erdman, LB 709; Health and Human Services Committee, LB 382 and LB 551; and Senator Foley, LB 57. Mr. President, I also have a series of reports received, on file in the Clerk's Office, reports from Department of Administrative Services, the Boys Town National Research Hospital, Creighton University, the Department of Education, Railway Council, University of Nebraska-Lincoln, University of Nebraska Med Center. And the last item, Mr. President, the

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weekly lobbyist report, to be inserted in the Journal. That's all that I had, Mr. President. (Legislative Journal pages 811-814.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to Select File, appropriations bill. Legislative Confirmation report, as I said. Mr. Clerk.

CLERK: Mr. President, the Education Committee reports on the appointment of Jane Keller to the Board of Educational Lands and Funds. (Legislative Journal page 791.)

SENATOR CUDABACK: Senator Raikes, you're recognized to open on the confirmation report.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. The Education Committee recommends the confirmation of Jane Keller to the Board of Educational Lands and Funds. Ms. Keller is a reappointment to the commission. Her term of service is for four years, extending from October 1, 2004, to October 1, 2009. Ms. Keller is currently the chair of the board and, from all indications, she has done an excellent job in that capacity. She is from Bassett, and is a graduate of the University of Nebraska at Lincoln. In addition to her duties on the board, she serves as a member of the Bassett City Council. Some background on the board. The constitution directs the Board of Educational Lands and Funds to provide for, quote, the general management of all lands set apart for educational purposes, end quote. The board consists of five members, one from each of the four congressional districts as they existed on January 1, 1961, and a fifth member from the state at large. With that, I'll encourage your support of this confirmation. Thank you.

SENATOR CUDABACK: Thank you. You've heard the opening on the confirmation report by Chairman of the committee, Senator Raikes. Open for discussion on that motion, confirmation report, Education Committee. Senator Raikes. Senator Raikes waives the opportunity to close. The question before the body is adoption of the confirmation report by the Education Committee. All in favor of the report vote aye; those opposed

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to the report vote nay. Have you all reported...voted on the report who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 814.) 31 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR CUDABACK: The confirmation report by Education Committee has been adopted. (Visitor introduced.) Now we go to Select File, appropriation bill. Mr. Clerk.

CLERK: Mr. President, LB 503A, first bill. Senator Stuhr would move to amend with AM0775. (Legislative Journal page 814.)

SENATOR CUDABACK: Senator Stuhr, to open.

SENATOR STUHR: Thank you, Mr. President and members of the body. This amendment, AM0775, is a technical amendment, brought to my attention yesterday, to correct the personal service limit set for the associate audit position contained in the bill. It should be emphasized, though, that the dollar amount for the position's related appropriation will remain the same. And the amendment, on page 2, line 10, strikes "\$25,882" and insert "\$29,694", and strike "\$26,723" and insert "\$30,660." I ask the body to adopt this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. You've heard the opening on the amendment offered by Senator Stuhr, AM0775. Open for discussion. Senator Stuhr, there are no lights on. She waives the opportunity to close. The question before the body is, shall AM0775 be adopted to LB 503A? All in favor vote aye; opposed, nay. We're voting on adoption of the Stuhr amendment, AM0775. Have you all voted on the amendment who care to? Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Stuhr's amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: Senator Flood, I have nothing further pending on the

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bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 503A to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 503A to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. We now move to Select File. And LB 205, the second bill, will not be heard this morning, in the absence of Senator Engel. Mr. Clerk, LB 98.

CLERK: LB 98. Senator Flood, I have Enrollment and Review amendments, Senator. (AM7028, Legislative Journal page 646.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 98.

SENATOR CUDABACK: You've heard the motion to adopt E & R amendments to LB 98. All in favor say aye. Opposed to the motion say nay. They are adopted.

CLERK: I have nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 98 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 98 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. As I say, we will skip over LB 205. Mr. Clerk, LB 244.

CLERK: LB 244. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

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SENATOR FLOOD: Mr. President, I move the advancement of LB 244 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 244 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 246.

CLERK: LB 246. Senator, no Enrollment and Review. Senator Jensen would move to amend with AM0763. (Legislative Journal pages 815-816.)

SENATOR CUDABACK: Senator Jensen, you're recognized to open on AM0763 to LB 246.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. And I have reviewed this with the sponsor of LB 246, Senator Johnson, and I'll even relinquish some of my time to him. LB 174 is a bill that was advanced out of the Health and Human Services Committee that deals with the upper limits of licensure fees. And in 2003, through LB 415, we...back when we were having our budget crunch, we recognized that we were subsidizing licensing fees as much as 50 percent. And through that passage of that bill, we said that licensing fees should be self-supporting to the rules and regulation. We are now at a point where we are now going to have to dip into General Funds if we don't increase the licensing fees. So what this bill does is...this is LB 174, that was passed in our Health Committee. And if you wanted to bring that up on your gadget, you sure could. But LB 174 raises the upper limits, gives the department authority to raise those limits, but not beyond that upper limit, so that we are self-supporting in those fees, and we're not dipping into the General Funds. That is what the bill does. I would be glad to relinquish some of my time to Senator Johnson, who is a sponsor of LB 246.

SENATOR CUDABACK: Senator Johnson.

SENATOR JOHNSON: Thank you, Mr. President. Thank you, Senator Jensen. I am very much in favor of this amendment that Senator Jensen has proposed. What this is, is just changing the fee structure, or the allowable fee structure, that has been

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negotiated. And with general agreement, I believe it passed out of our committee without a negative vote. It seems to blend in well with my bill, LB 246, which deals with other regulations regarding nursing homes. I strongly recommend the adoption of the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Johnson. Further discussion on AM0763, offered by Senator Jensen? Senator Jensen, there are no...he waives closing. The question before the body is, shall AM0763 be adopted to LB 246? All in favor vote aye; opposed, nay. The question before the body is adoption of AM0763. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Jensen's amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 246 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion, advance LB 246 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 246 is advanced. Mr. Clerk, LB 243.

CLERK: LB 243, Mr. President. Enrollment and Review amendments, Senator. (AM7025, Legislative Journal page 647.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 243.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments. All in favor say aye. Opposed, nay. They are adopted.

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CLERK: I have nothing further on that bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of LB 243 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 243 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 243A.

CLERK: LB 243A. Senator, I do have Enrollment and Review amendments pending. (AM7026, Legislative Journal page 647.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 243A.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 243A. All in favor of that motion say aye. Opposed, nay. They are adopted.

CLERK: I have nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 243A to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 243A to E & R for engrossing. All in favor say aye. Opposed, nay. LB 243A is advanced. Mr. Clerk, LB 76.

CLERK: Mr. President, LB 76. No Enrollment and Review. Senator Baker would move to amend with AM0699. (Legislative Journal page 816.)

SENATOR CUDABACK: Senator Baker, you're recognized to open on AM0699.

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SENATOR BAKER: Thank you, Mr. President, members of the body. AM0699 is LB 597. If you want to bring that up on your screens, LB 597 was a bill that was heard before the Transportation and Telecommunications Committee. It was advanced to General File on the 3rd of February. It had 8 votes for advancing the bill; no one voted against it. There were no opponents. The proponents testifying were the Nebraska Trucking Association, the Nebraska Agri-Business Association. The bill is dealing with commercial driver's license HAZMAT endorsements. LB 76 is the bill that was dealing with commercial driver's licenses as a whole, which was advanced to Select File. LB 597, which is AM0699, is dealing with the HAZMAT endorsement portion of a CDL. Let me point out that there are 60-some...73,000 CDL holders in Nebraska, 73,000; 16,000 of those CDL holders have HAZMAT endorsements on their licenses. That provides them the ability to transport hazardous materials, hazardous materials meaning biological agents, toxic chemicals, flammable material, explosive material, and radioactive material. We have to get into compliance with federal regulations here by May 31 of 2005; hence, we felt, in the best management of time, we should amend LB 597 onto LB 76. The...I'll briefly go through the bill. And I'll be glad to answer any questions. What...this bill is a result of the federal requirements of the PATRIOT Act, homeland security issues and transportation security. If you want to follow along--it doesn't look like there's anybody much interested in following along--but if you want to follow along, Section 3 deals with adopting the federal requirements for interstate shipment of etioloical agents, which is something that's toxic and is subject to increased toxicity exposure to sunlight and air. I can think of chlorine gas, and things like that. Section 4 amends some obsolete language. It allows the department to furnish...I'm sorry, it amends some obsolete language, takes it out, dealing with paper application forms, which is still...we're still in a cleanup process over the whole driver's license issue, where we went from paper forms, and so on, numbered, to the new process that we use that's basically electronic in nature, and much easier to work with. It also allows the department to furnish the Social Security number of an applicant when they apply for HAZMAT endorsement to the Transportation Security Administration, or its agent. Section 9

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prohibits a person holding a learner's permit, CDL learner's permit, from operating a commercial vehicle while being...obviously, learning to drive. It prohibits them from transporting hazardous materials while they hold that learner's permit. Common sense there. Section 10 language prohibits the Department of Motor Vehicles from endorsing a driver to operate a commercial vehicle transporting hazardous materials unless the endorsement is issued, renewed, transferred, or reissued in conformance with the USA PATRIOT Act. Section 11, beginning on the implementation date designated by the director--in this case, Department of Motor Vehicles' director--an applicant for a new or renewal hazardous materials endorsement shall complete an application process--now this is new--including threat assessment, background check, fingerprints, and payment of fees, as prescribed by federal regulations. Upon receipt of the determination of threat assessment from the Transportation Security Administration, the department shall retain the application for at least one year. Threat assessment is listed...these are some of these issues they're going to be looking at: assault with intent to murder, kidnapping, rape or aggravated sexual abuse, extortion, robbery. I can provide this list. It's in 49 C.F.R. regulations here. I have it. I won't go through it all. But when a person applies for a HAZMAT endorsement on a CDL, the crux of this bill is, they shall have to be determined to be not a threat to the transportation system. And that assessment is done on these issues that I just read through some of them here. And if they are...have been convicted of...an applicant can be disqualified from holding a hazardous materials endorsement if he or she has been convicted or found guilty by reason of insanity within the past seven years, was released from prison within the past five years, or is wanted or under indictment for any of these following crimes, which I would be glad to share those with you, if you'd like. Like I said, they're serious crimes: assault with intent to murder, kidnapping, hostage taking, aggravated sexual abuse, and so on. That's the change. The fees proposed...the state of Nebraska has contracted with a third party, an agent, to handle a lot of this. And to alleviate the fears that we'd have one testing station in Omaha, they're working with a number of county sheriffs who have agreed to take the...or at least looking at the opportunity to take the fingerprints, the two

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sets of fingerprints, do the background checks, and that through that process. So we would have some ability to access these requirements throughout the state. It wouldn't just be a centralized point that they'd have...the CDL HAZMAT endorsed people would have to travel to. Continuing on with the bill, in Section 12, new language prohibits the issuance, renewal, transfer, or reissue of a HAZMAT endorsement before the department receives a determination from TSA that the applicant does not pose a security threat. Once again, this is just common sense. They are required to provide this security threat. And until the Department of Motor Vehicles actually gets this in hand, they cannot issue a license in any way, shape, or form, with a HAZMAT endorsement. Department may refuse to process application for renew (sic) or renewal CDL with a HAZMAT endorsement if the applicant fails to submit to fingerprinting; the applicant fails to submit the required information, documentation; or the applicant fails to pay the required fees. The fees are projected to be: the information collection fee, from \$25 to \$45; a threat assessment fee is \$36; and the background check and fingerprinting is \$22 to \$24. There is going to be some cost to this. This bill is not something you'd say, yes, I'd really like to do, but we don't have the choice. It's something that we have to do. There are penalties involved with it if we do not adhere to this. I will say this. This is not a rerun of a bill...similar bill we had last year. It was just simply unworkable. The states came together, said, we're not going down this path; we have to make this more user-friendly. And they did. TSA said, fine. They'd worked with the states over a period of actually a couple years on this, and said, well, we will make this as user-friendly as we can and still think that it maintains the strength we need to provide security for people hauling hazardous materials with a commercial driver's license. That, in a nutshell, is where it is. I want to remind you, there's 16,000 CDL holders with HAZMAT endorsements. The Nebraska Trucking Association supported the bill; Nebraska Ag-Business Association supported the bill. I would be glad to answer any questions, provide any further information you need here. I have files with the Code of Federal Regulations. And with that, Mr. President, I would be...I would encourage you to adopt AM0699, which, once again, as I said, this is LB 597. I would encourage its adoption to

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LB 76. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. You've heard the opening on AM0699. (Visitors and doctor of the day introduced.) On with discussion of the Baker amendment, AM0699. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, Senator Baker, the level of attention was so high over here that I didn't hear a good part of what you said. But let me just ask you this. It's a big, long amendment. You indicated that everything in it is essentially required by the federal government. Is there anything in the bill that is not required by the federal government that would constitute a question, a major...a significant question upon which reasonable people could disagree? Use as the standard, ten years from now, if somebody came and said, why the heck did you do that? Is there anything in here that we would say...that we couldn't say, they made us do it?

SENATOR CUDABACK: Senator Baker, would you yield?

SENATOR BAKER: Yes, I would. And I think we've gone as far as we can with it, Senator Beutler. If you will recall, two years ago, this was in discussion stages. Last year, we had a bill. It was horrendous. I couldn't defend it; we didn't try to defend it in the Legislature. The states got together with the National Trucking Associations and their representative here, Nebraska participated in that, got this thing as workable as we could and as reasonable as we could make it. I am satisfied that it's not going to...the requirements are not going to be changed now, because this has been adopted and...by the federal...the TSA. It has to be in place by May 31 of this year. I think we're as clean and as neat as we're going to make this. And I can defend it, I think, as far as that goes. I don't see anything (inaudible).

SENATOR BEUTLER: Okay. And there are no major policy decisions for us that we can make at this level?

SENATOR BAKER: Not that I can see.

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SENATOR BEUTLER: Okay. Thank you, Senator Baker. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion? Senator Bourne, on the Baker amendment.

SENATOR BOURNE: Thank you, Mr. President, members. It's a little unorganized this morning. Senator Baker, would you yield to a question or two?

SENATOR CUDABACK: Senator Baker, would you yield to a question?

SENATOR BAKER: I would be glad to answer questions.

SENATOR BOURNE: Thank you. Senator Baker, this is the bill that you and I had a discussion on General File...regarding this bill on General File, isn't it?

SENATOR BAKER: No. We had the discussion on LB 76, I think, Senator Bourne. This is LB 597, which was on General File.

SENATOR BOURNE: So you have deleted all the provisions of LB 76 with the amendment?

SENATOR BAKER: No, we have not. We've simply amended LB 597 into LB 76. LB 76 was the bill that got us in compliance with commercial driver's licenses as a whole. This is dealing with hazardous materials endorsements.

SENATOR BOURNE: Okay. But I wanted to visit about the underlying bill, LB 76. And I had talked to you about this at one time. And I had...I believe on General File...was this the bill that we had discussed the due process elements, that you're taking somebody's commercial driver's license. If they...if I recall, if they were in a commercial vehicle and made an improper lane change and then didn't happen to have their commercial driver's license on them at the time they were pulled over, they would lose their driver's license, or commercial driver's license for 60 days?

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SENATOR BAKER: They...you're correct...partly correct, I guess. They have to have two major infractions within...

SENATOR BOURNE: But again, one of the major infractions is not having the license on your person. Isn't that accurate?

SENATOR BAKER: Yes, that's correct.

SENATOR BOURNE: Okay. Senator Baker, I apologize this...for bringing this up at the last minute. I did discuss this with you on General File, and I meant to do something with the bill as it related to the due process concerns that I have. I believe there are several cases on point--and you and I, again, had discussed this--that says this is a due process violation, to take somebody's license without a hearing. And did you have an opportunity to review those?

SENATOR BAKER: Yes. And they...I'm looking through my notes here. I...they do have an appeal process in LB 597.

SENATOR BOURNE: LB 597 is...

SENATOR BAKER: Is the bill we're amending into LB 76. There is an appeal process. And I can see if I can dig that out of here quick for you. I might have to do this off the mike. It's in here...it's part of the federal regulations if they're denied a HAZMAT endorsement. And I'm not sure that this addresses what you're saying, though, either, on the other hand. The appeal process is dealing with the HAZMAT endorsement, threat assessment and so on, denial of that, so.

SENATOR BOURNE: Senator Baker, I got to be honest with you, I think what you're asking us to do this morning is, on Select File, to add an amendment, a significant amendment dealing with persons'...with people's livelihoods, to a bill, to the underlying bill, that is also dealing with somebody's livelihood. And I hope the members are listening. If a person is in a commercial vehicle and they make an improper lane change and are pulled over and for some reason they don't have their driver's license on their person...I can't imagine why you wouldn't carry it. But if you had a valid license but you

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didn't have it in your pocket, that is two serious traffic violations. That person will lose their driver's license automatically for 60 days. They will be unable to work for 60 days, and I'm troubled by that. Now, Senator Baker, you said that in the amendment, AM0699, there are some due process...some issues...I mean, some procedures that a person can go to protest the loss of their...basically, their paycheck for 60 days?

SENATOR BAKER: There are appeal processes dealing with the threat assessment. If they come back and say they are a threat and are denied a HAZMAT endorsement, there is an appeal process in that particular issue, Senator Bourne. I need to correct you, too. And if this person is operating a motor vehicle other than a commercial motor vehicle, a person is disqualified from driving a commercial motor vehicle for 60 days...

SENATOR CUDABACK: One minute.

SENATOR BAKER: ...if he or she is convicted of two serious traffic violations. It doesn't lose their driver's license; they just can't drive their commercial vehicle for 60 days.

SENATOR BOURNE: Okay. Two serious traffic violations, I understand that. If I'm driving...I have a...say I'm a CDL. I'm a commercial truck driver. And I'm in my commercial truck and I make an improper lane change. And if you read the statute, in another section, regarding improper lane change, it's subjective. So if the police officer thinks that the individual pulled in too close to another car, that's an improper lane change. And again, if the police officer pulls the truck driver over and he, for some reason, he or she, for some reason, doesn't have his license on the person, on their person, that's a second serious driver's...second serious offense. Is that right?

SENATOR BAKER: That's correct.

SENATOR BOURNE: So what I'm saying is, in the underlying bill, that is an automatic revocation of a person's commercial driver's license for 60 days. Is that accurate?

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SENATOR BAKER: There is an appeal process in Chapter 60-4,105,...

SENATOR CUDABACK: Time, Senator.

SENATOR BAKER: ...applies to all driver's license suspensions.

SENATOR CUDABACK: I'm sorry, Senator Bourne. Your time is up. Senator Baker, followed by Senator Bourne. Senator Baker.

SENATOR BAKER: Thank you, Mr. President. I'd be glad to share my time here with Senator Bourne. This is my time now? Is that what you're saying?

SENATOR CUDABACK: It's your time now.

SENATOR BAKER: Okay. Senator Bourne, if you would continue the discussion here, it would be fine with me.

SENATOR BOURNE: Thank you, Mr. President, members. Thank you, Senator Baker. And again, I had expressed my concerns on this bill on General File. And I...quite honestly, I dropped the ball. I meant to talk to Senator Baker about it. But I've done a cursory review, and I don't think that the...there is a due process procedure. The way the bill is drafted, as I understand it, LB 76--and Senator Baker, hopefully you and I are having a dialogue, and you can correct me if I'm wrong--the way I read LB 76, the underlying bill, it is an automatic revocation for 60 days if a person has two serious traffic offenses. And on its face, serious traffic offense sounds terrible. But if you don't have your driver's license in your pocket, that, under statute, is a serious traffic offense. So I'm trying to figure out, where is the process by which a person can appeal the loss of their license, and allow them to continue to earn a paycheck? Senator Baker?

SENATOR BAKER: I was looking up Section...or Chapter 60-4,105. I'm sorry.

SENATOR BOURNE: Senator Baker, would you be willing to pass this bill over and add it, with the Speaker's permission, to the

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next round of Select File debate?

SENATOR BAKER: Senator Bourne, what you're talking about was in LB 76, and it's been on Select File for some time. I'd really hate to pass over this, to be honest with you. There is an appeal process. Any time there's a license revocation proposed, it is in Chapter 60-4,105, there is an appeal procedure. Without just reading through it for you, they, obviously, can request a hearing and go through that process. And I have to remind you that this, again, only relieves a person from...or prohibits a person from driving for 60 days as a commercial driver, not...

SENATOR BOURNE: Senator Baker, if you are a commercial driver, how do you get paid if you're not driving?

SENATOR BAKER: I am a commercial driver, Senator Bourne. I have a Class A CDL. And let me tell you, if I'm pulling an 80...driving an 80,000 pound rig, which I do, loaded with fertilizer, I'm not going to make an improper lane change. And if I do, I ought to be penalized. And I...certainly if I don't have my CDL license on me, I'd say I'm...I deserve to have my driving privileges taken away for 60 days.

SENATOR BOURNE: So you're saying that because somebody makes an improper lane change, makes a mistake, was in a rush that morning and somehow didn't put their billfold in their pocket, that they...that that conduct is warranted that they shouldn't have a paycheck for 60 days?

SENATOR BAKER: You'd have to do two of these.

SENATOR BOURNE: It...I'm...

SENATOR BAKER: And I tell you what--I've got my commercial driver's license here in my hand. If I'm driving a commercial truck, weighing 80,000 pounds, with hazardous material in it, and I make an improper lane change and crush somebody's car with a 45-foot trailer behind me, I deserve to lose my CDL for 60 days.

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SENATOR BOURNE: Senator Baker, I agree with that scenario. But that is not necessarily the extent of an improper lane change. If a police officer is sitting at the side of the road and in his or her judgment that truck cut in too close to another vehicle--it could be 100 feet ahead, and nobody was in danger--and then they pull that individual over and they don't have a driver's license, the way I read the bill, on page 13, it says a person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days. I don't see the appeal process here, and that is my concern. I understand what you're trying to do, and it makes sense to me. I just want to make sure that the average person is protected, that there is an avenue where they can go and say, hey, that wasn't an improper lane change. This person should have rights to be able to go to present their case, and I don't see that in the bill. And I'm asking from you some information or...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...some confirmation that a person will have the ability to appeal this decision before their license is taken away.

SENATOR BAKER: Okay. Senator Bourne, I have my light on if we run out of time again. At least, I'll turn it back on. Just a sec. I'm going to read from Chapter 60-4,105, appeal procedure.

SENATOR BOURNE: Senator Baker, I...

SENATOR BAKER: It's not in the bill; it's just...it's in underlying statutes. It's there now. We don't have...the appeal procedure is in statutes now.

SENATOR BOURNE: But doesn't the underlying bill have to refer to the appeal process to make that available to an individual?

SENATOR BAKER: Not in my opinion, no. If they lose their...if they're going to have their license...and this applies to a whole lot of licenses. I...looking at this appeal process, there's Health Advisory Board and all sorts of things in this appeal procedure here. No, I don't think we have to refer to an

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appeal process each time there's a mention made in a bill about potentially losing a license.

SENATOR BOURNE: Senator Baker, what do you...okay, the scenario that I outlined, we are...

SENATOR CUDABACK: Time,...

SENATOR BOURNE: ...both in agreement...

SENATOR CUDABACK: ...Senator. Senator Bourne, you may continue. Your light...

SENATOR BOURNE: Thank you, Mr. President, members. Senator Baker, if you would continue this discussion?

SENATOR BAKER: Yes.

SENATOR BOURNE: I think we're both in agreement that under the bill, LB 76...and I haven't had a chance to read AM0699, and I'm concerned about that one as well, because I think there's some significant policy changes that are...that we're being asked to adopt in a matter of minutes. But go to the underlying bill. You and I are in agreement that a serious traffic violation is an improper lane change. And not having in your possession...even though you have a valid commercial driver's license, if you don't have it in your possession and are asked for it, that is also a serious traffic violation. Is that right?

SENATOR BAKER: Yes.

SENATOR BOURNE: Okay. So the scenario that I'm talking about is, a truck driver makes an improper lane change. He does not have to run into a car; he simply has to cut in when, in an officer's opinion, subjective opinion, he cuts in too close. And then they're pulled over and they don't have their driver's license. That's two serious traffic offenses, which, under LB 76, provides that they lose their license for 60 days. So we're at that point right now. Okay?

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SENATOR BAKER: Yes.

SENATOR BOURNE: So the truck driver, what does he or she do at that point?

SENATOR BAKER: I'm going to read from statutes here, Senator Bourne. Any person who feels himself or herself aggrieved because of a revocation pursuant to Section 60-4,169 may appeal from such revocation in the manner set forth in Section 60-4,105, which is...those are the sections we've been talking about. Such appeals shall not suspend the order of revocation unless a stay of such revocation shall be allowed by the court, pending a final determination of the review. The license of any person claiming to be aggrieved shall not be restored to such person in the event of a final judgment of a court against such person until the full time of revocation, as fixed by the director, has elapsed. The process is there now.

SENATOR BOURNE: Okay. So in this situation, this individual did the two things that I outlined, they do not automatically lose their license. Is that what you're saying?

SENATOR BAKER: They have an appeal process. And I'm assuming, with the appeal process, yes, there would...well, I'm in uncharted waters here. I think they would temporarily lose their license and they'd have to go through an appeal process to get it back, yes. But let me tell...I don't know whose time we're even on here, but...

SENATOR BOURNE: We're on my time now.

SENATOR CUDABACK: Senator Bourne's.

SENATOR BAKER: Well, if we'd been on my time, a person who's...

SENATOR BOURNE: Well, please talk. It's...

SENATOR BAKER: Well, a person who's guilty of two of these serious infractions is going to have to justify to me why we should not withdraw their driving privileges for 60 days.

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SENATOR BOURNE: Senator Baker, my point is, is I think that making a mistake and not having the driver's license in your pocket, I don't see how that's a serious traffic violation. But you have expertise in this area, so I'll concede the point to you. But I'm saying, when you add those two together, you're taking away an individual's livelihood. And I...and again, maybe I'm not reading this properly, but as I read it, there's an automatic revocation of the license, and then that individual has to appeal. So that person is not working while their driver's license is suspended. I assume you can't drive a truck unless you have a CDL. Is that correct?

SENATOR BAKER: Well, if you're saying...a person who's normally required to have a CDL, driving a truck...commercial truck, yes, you have to have that CDL to drive it.

SENATOR BOURNE: You're not concerned in any manner that we're taking a person's ability to earn a paycheck away, without the benefit of a court hearing?

SENATOR BAKER: I'll tell you what I'm concerned with is safety on the road, with the...I can't defend somebody that has two serious infractions. I don't care if they forgot their license. They ought to...if they're a commercial truck driver, that is their ticket to a job, and they ought to have that with them, Senator Bourne.

SENATOR BOURNE: I will...I don't disagree. And I will tell you that I don't think I've ever been in a...in my...driving my motor vehicle without my license on my person. But what I'm suggesting to you...an improper lane change, could that be serious driving offense? Yes. Speeding in excess of 15 miles an hour? Yes. Drunken driving? Yes.

SENATOR CUDABACK: One minute.

SENATOR BOURNE: But I'm not sure, when you add...when you aggregate these penalties, that not having that license in your person is a significant enough offense such that you're going to lose your ability to earn a paycheck for 60 days without the benefit of the appeal. And I'm just asking for your reassurance

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that the process is this--they get the tickets; they continue to drive until they go to court and the court takes away their driver's license. Is that an accurate scenario?

SENATOR BAKER: Yes, I believe so, yes.

SENATOR BOURNE: You believe so? Or can you provide...

SENATOR BAKER: I'm going to have to confirm that.

SENATOR BOURNE: Senator Baker, I guess my time is about out. I'll push my light on again. My...I can appreciate what you're trying to do. You're trying to make the roads safe. But what I'm trying to do is make sure that these folks are...have an appeal procedure such that they can continue to earn a living, simply because a police officer...

SENATOR CUDABACK: Your time is up, Senator.

SENATOR BOURNE: ...made a subjective decision that they improperly changed lanes.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Beutler, on AM0699.

SENATOR BEUTLER: Senator Baker, I also need to make an apology. I wasn't on the floor when this bill came up for General File. But I wanted to ask you about Section 12 of the green copy, if I could, because it contains some language that's unusual, I think you would agree. And I'm interested in what it means or how it would apply. It says in Section 12...and let me just read the whole thing, so those on the floor can understand what we're talking about: The state must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a commercial driver's license driver's conviction for any conviction (sic), in any type of motor vehicle, of a state or local traffic control law, except a parking violation, from appearing on the driver's record, whether the driver was convicted of an offense committed in the state where the driver is licensed or another state. First of all, it says "The state must not." Does that mean there can be

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no statutes in place that would have the effect of one of those things? Could you elaborate on that a little bit? And I would yield, Senator Cudaback,...

SENATOR CUDABACK: Senator...

SENATOR BEUTLER: ...my time to Senator Baker.

SENATOR CUDABACK: Senator...

SENATOR BAKER: Thank you, Senator Beutler. Yes, this...that is a state mandate. This is dealing with what's commonly known as the STOP program in Nebraska, which is not uniform across the state. We cannot allow a state program to mask these convictions. That's from federal regulations.

SENATOR BEUTLER: Well, here's...let me go back and forth with you here a little bit. It says the state must not do this. If the state must not do it, shouldn't we go back in our statutes and prohibit any of the political subdivisions from doing it?

SENATOR BAKER: No, Senator Beutler, the state of Nebraska is being sued over that. There's a court case right now...

SENATOR BEUTLER: I wasn't aware of that. What...

SENATOR BAKER: It's there...

SENATOR BEUTLER: What is happening?

SENATOR BAKER: And our problem with the STOP program at this time--and now we're into a little bit different territory--is, lack of a uniform...

SENATOR BEUTLER: Can you go back and describe the STOP program for people, including myself? I'm forgetting...

SENATOR BAKER: The STOP program is put in place on a county-by-county basis.

SENATOR BEUTLER: A county option?

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SENATOR BAKER: County option. And I don't remember...some of the other committee members could help me on this. But over the past several years, we've always had an issue...well, Senator Schmitt was here. That's when it really came to a head. There was a county...say one county has a STOP program; county beside it does not. I believe his rationale was, either everybody has it or no one does. And then, when we couldn't get it eliminated, he wanted some uniformity across counties that did have it. But it will allow...

SENATOR BEUTLER: Is this the program that Sarpy County hung on to...

SENATOR BAKER: Yes.

SENATOR BEUTLER: ...so tightly, for one?

SENATOR BAKER: And I think we patterned the law, as I recall, as it exists now, after Sarpy County's program. They had an exemplary program there. And we adopted a lot of what they're doing into state statute. But it's still an option county-by-county as to whether they even offer a STOP program. And that is the issue I think we have now in front of the courts.

SENATOR BEUTLER: So the STOP program, as it's executed in these counties, would be a violation of federal provisions?

SENATOR BAKER: Yes. We cannot allow that STOP program to mask a conviction within the state of Nebraska on a commercial driver's license. And the reason the federal people stepped in on this, Senator Beutler, is there's such...there's no uniformity in the STOP program even within the state of Nebraska, let alone across the nation.

SENATOR BEUTLER: Okay. So we've passed a statute that would end the STOP program? Is that accurate?

SENATOR BAKER: This...concerning commercial driver's licenses, yes. And this would be all commercial...

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SENATOR BEUTLER: But I mean before this bill.

SENATOR BAKER: What, now? This bill...

SENATOR BEUTLER: Did we enact a statute before this bill that stopped or ended the STOP program?

SENATOR BAKER: No, we did not. And it would...

SENATOR BEUTLER: So they still currently have the option of doing that?

SENATOR CUDABACK: One minute.

SENATOR BAKER: Yes, we do. And that's what's under court review now. I can't tell you which court it's been filed in--district court in I don't know what county. But...

SENATOR BEUTLER: Well, then why, if that program is still being allowed statutorily, why don't we stop it statutorily, so that we're clearly in compliance with the federal law?

SENATOR BAKER: That...I'll be...I'll go on record with you right now--I would like to eliminate the STOP program in the state of Nebraska.

SENATOR BEUTLER: Well, this language here is not going to stop it, is it?

SENATOR BAKER: It will only stop it with...concerning commercial driver's licenses. It...

SENATOR BEUTLER: Well, it says, "The state must not." But how are we going to stop a county from doing it, unless we pass a state statute that says the county shall not do this?

SENATOR BAKER: Well, it simply is stating, in Section 12 of the green copy now--LB 76, for those following along--"The state must not mask, defer imposition of judgment." So a county who has a STOP program now cannot use it, by statute,...

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SENATOR CUDABACK: Time.

SENATOR BAKER: ...in LB 76,...

SENATOR CUDABACK: Thank you, Senator...

SENATOR BAKER: ...to mask a violation.

SENATOR CUDABACK: I'm sorry, Senator Beutler, your time is up.

SENATOR BEUTLER: Okay.

SENATOR CUDABACK: Senator Stuthman, followed by Senators Baker, Synowiecki, Brown, Bourne. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I have some questions and concerns with this bill. And I would like to engage in a little bit of a dialogue with Senator Baker, if I could, please.

SENATOR CUDABACK: Senator Baker, would you yield to a question from Senator Stuthman?

SENATOR BAKER: Yes, I would.

SENATOR STUTHMAN: Thank you. If there's some traffic...serious infractions when an individual is driving his car...well, I should back up. If an individual has a job during the week and he runs a truck, got the CDL license; on the weekend he happens to head for town, gets picked up for speeding, and doesn't have his driver's license along, in his personal vehicle, how does that relate to the bill that we're having right now?

SENATOR BAKER: That would be two serious infractions. That's how it relates. And that would relate to LB 597.

SENATOR STUTHMAN: And that would relate to his CDL license, right, even if he's driving his personal vehicle, like anyone else? And that could restrict him as far as his income earning ability the next week when he has to drive, or whenever his

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license would be taken away. Would that be correct?

SENATOR BAKER: I have so many papers on my desk right now, Senator Stuthman, I'm going to have to sort through that. I...in my own mind, I'm not clear on that. It's in here. I could get it for you in a minute. We passed a law that said that violations had to be in their commercial driver's...commercial vehicle, I believe. But I'm going to clarify that for you.

SENATOR STUTHMAN: Okay. And I'll give you some time to do that. The...and I've had several constituents call that have CDL licenses, and they were concerned about that, that if, while on the weekend, they were driving their personal vehicle and happened to get picked up, and it was a greater offense, and it would realistically really affect them and their job income earning ability on their CDL license. That's a concern that I have. So I will wait, and I'll visit with Senator Baker. But I think we need to look at...take a serious look at this yet, you know. I'm in a little bit support of this. I did vote to move that out of committee. But I had some questions at that time. So with that, I'll return the balance of my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Members, it's a little noisy, a little buzzy in here. If you would hold it down, in respect for the speakers, we'd appreciate it. Thank you. Senator Baker.

SENATOR BAKER: Thank you, Mr. President, members. Driver's licenses typically require a lot of discussion, I guess, whether it's a learner's permit or a school permit or certainly a CDL. But I'm going to summarize a bit of this. To me, having a CDL driver's license with a HAZMAT endorsement is nothing to be taken lightly. These hazardous materials--I'm going to back up a bit--are explosives, radioactive material, flammable material. My desk is a little disorganized right now. But these are not to be taken lightly, and I don't. And I think that anyone who is guilty of two serious infractions should be...have their license revoked. I need to back up here, and we do have some additional material. Any person who has these two serious

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infractions, there is an appeal process. And the revocation, or the suspension of that license for 60 days will be stayed upon the appeal. Once the appeal is heard, and then if they lose the appeal, they're going to lose their license for 60 days. I don't see Senator Bourne right now. I think that should alleviate some of his concerns. But they do have...obviously, any time you have a license revoked, you have the appeal process you can go through. The revocation, or the suspension, I should say, of 60 days is stayed until the appeal process works its way through the system. At such time, obviously, if they lose the appeal, they're going to have their license suspended for 60 days. So that question, I think we have it answered. I'm not going to suggest that we should do anything differently. If someone is guilty of those...of two serious infractions, I'm sorry, I can't defend them. They need to take their job more seriously, I guess, than to allow themselves to be in that position. And I need to back up again a bit here. This has been mandated by the federal government. As distasteful as that is in my own mind, I...there isn't an alternative here. We have worked with TSA, the states as a group, through congressional delegations and so on, to make this as user-friendly as it is. Some of these issues that Senator Bourne is concerned with on LB 76, underlying bill, those are federal regulations, requirements. There are penalties involved here. It's 5 percent of our potential...a potential 5 percent of loss of federal trust funds the first year. I believe it's 10 percent a year thereafter. The federal government is serious about this. They have been cooperative and worked through the process, Transportation Security Administration working with the National Truckers Association, the State Department of Motor Vehicles, on and on. The process has gotten us to this stage. I don't believe we're going to see the TSA...the federal regulations changed. And we have till May 31 of 2005 to have these adopted. This is serious. We have 16,000 commercial driver's licenses in the state of Nebraska with HAZMAT endorsements. And I was a little surprised by that. But as it was pointed out, we have some very large trucking firms based in Nebraska, and every one of their drivers--I shouldn't say, maybe, every one, but I'm assuming every one of them has to have a HAZMAT endorsement, because they never know, when they're going to go pick up a load, what may be on that load. And they can't say, whoops, I

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can't pull this trailer because I don't have a HAZMAT endorsement. So these large trucking companies based in Nebraska have to have their drivers HAZMAT endorsed. It's a big issue, and I don't see an alternative to this. And as far as holding the bill, I don't think that would be prudent. Senator Bourne's concerns are with LB 76. That bill has been on Select File for I don't know how long. Jump in there now and say, let's hold it, I'm not going to...

SENATOR CUDABACK: One minute.

SENATOR BAKER: ...suggest we do that. I think we need to move on. I think the bill is in as good a shape as we're going to get it. There's some things, obviously, that concern people. And Senator Bourne's main concern seems to be losing your ability to drive a commercial motor vehicle for 60 days with two serious infractions. I'm sorry. If you have two serious infractions, you have an appeal process, you can go through it. The suspension is stayed till the appeal process goes through the system. Such time you lose the appeal, you lose your driver's license for 60 days. I have not had anyone come to me saying that that's a bad idea. I do know a lot of commercial drivers. I've not had any of them say, if I'm guilty of two serious infractions I should still be allowed to drive. So I'll defend that. And as a commercial driver's license holder myself, a Class A commercial CDL, I say, if you're guilty of two...those infractions, I hadn't ought to be driving for 60 days. I ought to park that rig and think about it and not do that. We're not talking one here. Senator Bourne's issue of not having a driver's license...

SENATOR CUDABACK: Time, Senator Baker.

SENATOR BAKER: ...on person doesn't hold water with me. Thank you.

SENATOR CUDABACK: And that was your third time, Senator. Senator Synowiecki.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback. Senator Baker, I had some questions relative to Section 12 of the green

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copy of the bill on General File. And I'd like to follow up, if I could, on just a couple areas within Section 12.

SENATOR CUDABACK: Senator Baker, would you yield?

SENATOR BAKER: Yes, I would yield.

SENATOR SYNOWIECKI: Just to be clear, the state must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a commercial driver's license conviction for any violation in any type of vehicle.

SENATOR BAKER: That's correct.

SENATOR SYNOWIECKI: In this...in these instances then, Senator Baker, this would be an individual that has a CDL. For example, if they're driving in their personal vehicle and they fail to turn a blinker on, or are going a couple miles an hour over the speed limit, they are prohibited from even entering into a diversion program. Is that what this says?

SENATOR BAKER: Yes, that is, concerning a commercial driver's license only, though.

SENATOR SYNOWIECKI: How...as far as the mechanisms that the state DMV become aware of these, is it by conviction or by violation that the state...on their driver history abstract, that there's entries put on it? Senator Baker, are you aware of the mechanism there?

SENATOR BAKER: To me, that's part of the problem with the STOP program. These are masked on the county level and they never make it to state DMV, as far as I know. That is a big problem, in my mind. And if we do not allow someone with this, then that infraction is going to be transmitted to the DMV, obviously.

SENATOR SYNOWIECKI: I have no problem, Senator Baker, whatsoever if an individual is practicing in their professional capacity under the provisions of a CDL and operating machinery under the guise of a CDL. But I think...I do think there's a

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differentiation between that and a private vehicle, and not allowing even the availability to enter into a diversion class for these individuals to get educated on their infraction and for them to rectify that behavior, in the personal realm. Do you know what I'm trying to say, Senator Baker? And then my second concern is exactly what you spoke to. If these are preconviction diversionary programs, I don't know the mechanism by which the state could determine that these individuals are participating in it, anyway. And I'll leave the balance of my time for you, Senator Baker. Thank you.

SENATOR BAKER: Senator Synowiecki, I agree that there are problems with the STOP program, in my mind. I'm on record with Senator Beutler, I would suggest we just eliminate the STOP program. And we may through the courts, anyway. But part of the problem with the STOP program is just that it was such a disorganized, disparate program across counties that you never knew what you were getting into. There were various fees and so on. And just luck of the draw where you got stopped for speeding, I guess. If you had a county with a STOP program, you were able to go through it; otherwise, you couldn't. That is why the federal government is putting this in...is requiring us to put this in statute. There's just no uniformity across the state of Nebraska, let alone across the United States, as to who can take these preconviction diversions. That's why they're saying we can't use them anymore. They need to have some uniformity in the statutes so that they know someone with a CDL from Nebraska has not participated in a couple of STOP programs for 20-over speeding. And that goes back to my underlying belief that we really need to get rid of the STOP program. We've improved it a lot over the years. But those of you who didn't serve with Senator Schmitt, a former state patrolman, could see the problems with the STOP program, and consistently argued we ought to just eliminate it. And I agreed with him. But hence, that's why we have this particular language in the underlying bill, LB 76, Section 12.

SENATOR CUDABACK: One minute.

SENATOR BAKER: The state simply is requiring all states--and this isn't just picking on Nebraska; but Nebraska, in this...in

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our case, obviously is what they're targeting--cannot mask these convictions concerning a commercial driver's license. And I'm going to back up. These people...there's a considerable amount of training goes into obtaining a commercial driver's license. There are driver training schools. I don't know how long they last, but they're comprehensive. You have to take...it's a serious written test, a series of tests. It depends on what kind of endorsements you want, whether it's a tanker test or endorsement, or just how far you want to go. With the Class A, there's all sorts of endorsements. You don't get there by studying 30 minutes and going to take a 15-minute test. It doesn't work that way. And that's why I hold commercial driver's license holders to a higher standard. They are commercial. They're professional drivers. They're expected to do better than someone with a Class O license. And that's why, when you have...

SENATOR CUDABACK: Time, Senator Baker.

SENATOR BAKER: ...two infractions, you should have a 60-day license suspension.

SENATOR CUDABACK: Thank you,...

SENATOR BAKER: Did you say time? Okay, thank...

SENATOR CUDABACK: I did say time, Senator. Thank you, Senator Synowiecki and Senator Baker. Senator Brown, followed by Senator Bourne and others.

SENATOR BROWN: Mr. President, members of the Legislature, holders of CDL licenses cannot use diversion programs currently that...for tickets that are issued in their capacity driving a truck. This addresses what happens in their personal vehicles. And it's a federal requirement. The language is identical to federal language 49 C.F.R. 384.226. And it prohibits holders of commercial driver's licenses from taking diversion classes to avoid tickets being added to their record. And this is a significant issue because we...the examples that we've had are a few miles over the speed limit. But would you not want to know, if you were someone who had a trucking company, that someone

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that was driving for you might have had a DUI or something? And obviously, you can't take a diversion course for that. But there are more significant kinds of infractions that would cause a ticket to be issued that you could participate in a diversion program. And if you participate in a diversion program at the county level, it erases that ticket, and so the state never finds out, and it never goes onto the driver's record. The...this provision...noncompliance with this federal provision could result in the decertification of our CDL program in the state, which means that you couldn't even get CDL licenses issued in the state of Nebraska, which would be horrible for our trucking industry and for all the agricultural individuals who have to have CDL licenses. It also could result in the federal government...the penalty is 5 percent of our highway funds, which...for the first year, and 10 percent for every year thereafter, which would be \$10 million for the first year and \$20 million for every year thereafter. It's a little bit less than \$10 million. So this is just to make consistent for those individuals--and I agree with Senator Baker--for individuals who are doing this, who have CDL licenses, the requirements are a great deal higher, because of the consequences of any problems in driving when they're driving huge trucks and things of that sort. And so this is just one of those things that the federal government is requiring of us to ensure safety, especially safety with individuals who are controlling trucks of very high weight. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Mr. Clerk, announcement, please.

CLERK: Mr. President, Natural Resources will have an Executive Session under the north balcony at 10:15.

SENATOR CUDABACK: Thank you. Further discussion on the Baker amendment, AM0699, amendment to LB 76? Senator Bourne. And this will be your third time, Senator.

SENATOR BOURNE: Thank you, Mr. President. I'm going to add a little clarity to the revocation issue. And with all respect to Senator Baker, he did not articulate it quite right, so that I'm comfortable. I am not about protecting people that have two

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traffic violations. But what I am about is prohibiting the state from arbitrarily yanking somebody's license, such that they won't be able to earn a living. That's what I'm about. And I want them to have the benefit of the court system to verify that the serious traffic offenses that they allegedly committed were truly serious traffic offenses. So after talking to the director of the Department of Motor Vehicles, here's how the process works. An individual has two serious traffic offenses, and it could be the ones that I outlined, that they made an improper lane change. And again, that's subjective. One police officer might think 100 feet between the cars is improper, and the other would think that 50 is. But be that as it may, that's the way the statute currently reads. And then if they pull that person over and they don't have their commercial driver's license on them, that's a second serious traffic violation. And as I understand it, that's federal law. I can't do any...I don't like it, but there's nothing we can do about it. That person, the truck driver then, continues to hold on to their license. Then they go to court. Once they're at court, they have the opportunity to say, no, this is subjective. They can present evidence. They can say how it wasn't accurate; they didn't do what they were charged with. If the court then convicts them, then the court will notify the DMV that they have two serious traffic violations. So what I'm saying is, I'm comfortable now, and I think we all should be, that that person had at least the opportunity to present themselves into the court. And as I understood Senator Baker, he mentioned that their license was automatically taken, and that's not the case. They are able to go to court to say that these charges are not...are ungrounded. Then the DMV, once they receive notice from the court that this person has two traffic violations, they send them a notice asking for the license back. And then that person can, within a number of days, I think it's ten, they can appeal to the district court and ask for a stay of the revocation of license. And as I understand it, the court usually always gives them a stay. So what I'm saying is, is that the process...I think there's enough procedural due process elements in there that a person isn't simply just having his license taken away, as I understood Senator Baker to say that. I do have some concerns with the overall set of statutes. I don't like the fact that we're adopting U.S. PATRIOT language in

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our statutes, because I think that the U.S. PATRIOT Act is overreaching and is one of the worst things that we've ever done as a government. We've infringed on people's rights through that act in ways that we haven't even contemplated yet. And I won't be voting for this, because I resent the fact that we, in a moment of fear, adopted such a statute. I resent the fact that we are compelled to put that into our state statutes, but that's the way it is. But I am comfortable that there's procedural due process here. And I think all of us should be concerned that our citizens' rights are protected in every regard. And, Senator Baker, I appreciate what you're doing. If I implied that I'm about protecting lawbreakers, you're wrong...or, I apologize that you took it that way. But I am about making sure that the state, or bureaucrats, no offense to our agency folks, don't arbitrarily take somebody's way to make a living, take their livelihood. I think that's improper. Senator Baker, if you'd like the balance of my time, you're welcome to it.

SENATOR BAKER: Thank you, Senator Bourne. I think we're on the same page here. I am not...this is distasteful to me, too, Senator Bourne.

SENATOR CUDABACK: One minute.

SENATOR BAKER: This U.S. PATRIOT Act leaves a poor taste in my mouth. But quite honestly, Senator Brown was pointing out, and I also had pointed out, we...there are serious sanctions. If we do not adopt these federal regulations, go along with this, number one, our CDL HAZMAT program goes out the door. We can't get a HAZMAT endorsement for a CDL operator in the state of Nebraska. We have 16,000 people with these...16,000 drivers with HAZMAT endorsements. It also costs us money when they start sanctioning us at 5 percent the first year, 10 percent each year thereafter. Pretty soon, we're clear out of the program. And I'd like to stand up and say, no, we're not going to do this, but, quite frankly, I don't think that's a responsible reaction. We've worked with TSA, our Department of Motor Vehicles, the National Trucking, our State Trucking Association. They've done this. They've gotten it to the best form they possibly can, in their opinion. They testified for

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the bill. They're out back, if anyone wants to talk to them, saying we absolutely have no more alternatives, we've exhausted the process of trying to negotiate any more...or less-restrictive...

SENATOR CUDABACK: Time.

SENATOR BAKER: ...regulations. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Wehrbein. Senator Baker,...

SENATOR WEHRBEIN: I would give my time to Senator Baker.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Baker, five minutes.

SENATOR BAKER: Thank you, Senator Wehrbein. Appreciate the time. I'm going to reiterate a lot of what we've said. Senator Bourne is correct. And I...there is...that revocation...or, suspension of that license is stayed if there's an appeal filed. If I came across saying something else, there's always an appeal process. I don't know what it is that would be that there is not an appeal process. But certainly, there's an appeal process if you are in a position of having your driver's license either suspended or revoked. You can go ahead and continue to drive through that process. It's in statute. We don't need to make reference to it in this statute in any shape or form. It's already in the books. And you go through that process. Of course, if you lose your appeal, then you're going to have to surrender your license for 60 days, in this case, if you have two serious infractions. I think that protects the CDL HAZMAT...any CDL holder. And that doesn't apply just to CDL. That's anyone. But in particular, where someone depends on a CDL to make a living, they do have that option of filing an appeal and working through that process. And I have to point out how careful most commercial driver's license holders are. For those of you that don't read the Nebraska Trucking Association member magazine or so on, there are truckers in there with millions of miles under their belts, have never had an accident, never been involved in an accident. Just to stay

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out of harm's way is something, and not to have an accident over millions of miles. These people are professional drivers. They're going to live with this. We're not happy. As I said, it's distasteful to me to have to do a lot of these things. But it's not a matter of whether we want to do it or not now; we're under a time restriction here of May 31, 2005. The bill...the amendment, AM0699, has the emergency clause on it. We need to get it. I'm not in favor of prolonging the process. I'm sorry if there's things that upset people. It seems like every time we have a driver's license bill on the floor, we...quite a discussion evolves. And it looks to me like maybe we ought to offer a legislative resolution, just talk about driver's licenses all next summer and fall in the committee. And I'm not so sure but what we won't do that. So, we probably should. But it's been a good discussion. I hope that those who are interested in it have their fears calmed, and understand the stakes involved here--16,000 people. If you want to do something to the detriment of commercial driver's license holders, don't pass this bill, because they're going to lose their CDL HAZMAT endorsement. They're going to be out of work. The federal people, the TSA, will not recognize Nebraska's program. They will not allow us to issue any HAZMAT endorsed CDLs, and those people are going to be out of work, if we don't adopt these. And that's why the Nebraska Truckers Association and the...their members, understand the importance of this. They testified for the bill. They've worked many, many hours and days on this, trying to get it into a workable form. We had this bill last year. I need to refresh your memories. It was not a workable bill. We decided...we practiced a little civil disobedience, I guess, and go back to the TSA people and rework it. This is the best we could do. And I think it is...it's workable. It's going to be a change. And some of the discussion this morning has brought up some issues that we will address as a committee, I think, probably next session, dealing with masking violations and so on. We'll look at that. And we're certainly going to look at all the driver's license issues, I think, as a whole. I may propose that myself. But I encourage you to adopt AM0699. This is a serious issue. We really have no alternatives, unless you want to start taking cuts in Highway Trust...federal Highway Trust Fund allocations. And in the meantime, we're going to deny these people with

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HAZMAT endorsements the ability to drive...

SENATOR CUDABACK: One minute.

SENATOR BAKER: ...their trucks, hauling hazardous materials. We're going to take their livelihood away from them if we don't do this. We'll be out of compliance with the federal regulations. So, it's a serious issue. I would ask for your support of LB...I'm sorry, AM0699. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Mr. Clerk, announcements.

CLERK: Mr. President, two announcements: Natural Resources will have their Executive Session at 10:45 under the north balcony; and the Executive Board will meet at 11:00 underneath the south balcony.

SENATOR CUDABACK: Thank you, Mr. Clerk. (Visitors introduced.) On with discussion of AM0699. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I'm not going to take a lot of time, but I would like to ask a question of Senator Bourne. But I guess he's busy right now with the Speaker. But I want to bring up the issue on the STOP program. I think the issue on the STOP program, people have never mentioned a thing about what the realistic benefit of this, in my opinion, is, is that program there, it doesn't cost the individual any less money for the infraction that he has for the ticket that he received. But it's...the principle of it is the amount of extra additional insurance that individual has to pay for the following three years on his motor vehicle. That's where the cost is saved, because it doesn't go on the record. And maybe I could ask this question of Senator Baker, and I'll give him the balance of his...balance of my time, if he wants it. So I would like to ask a question of Senator Baker, if I could, please.

SENATOR CUDABACK: Senator Baker, would you yield?

SENATOR BAKER: Yes, I would.

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SENATOR STUTHMAN: In the analogy that Senator Bourne used, the lane change and not having the CDL license with him, he was relating, in my opinion, to an individual that was driving his truck, his work truck. Does the same thing apply to an individual that's driving his Sunday car?

SENATOR BAKER: Yes, it does.

SENATOR STUTHMAN: So that would be the same thing. But an individual driving his Sunday car without a CDL license would not have the same penalty, in other words, right?

SENATOR BAKER: No. Obviously, he doesn't hold a CDL. This just applies if you hold a CDL permit.

SENATOR STUTHMAN: And that's because he has a CDL? And if his infractions are because of his personal car on the weekend, because he has a CDL for his work, that is the reason why he would have to have these...this penalty a lot greater, just because of the fact he has a CDL?

SENATOR BAKER: Yes. And I...quite frankly, a person who has a CDL I think is going to be a more careful driver in his Sunday car also.

SENATOR STUTHMAN: Yes, I'll totally agree with you there. But it sometimes...you know, you do...and I will admit, you know, and I think most people will admit, that maybe you just didn't happen to take your billfold along to town sometime. I do that occasionally on the weekends, and maybe I was going 40 in a 25 mile an hour speed limit, and I hold a CDL license. That's a concern that I have. Because the fines, the times that I've gotten stopped, that I could have gotten stopped, or an individual that could get stopped with their personal vehicle, you know, is totally different just because he has a CDL, and somebody that don't have a CDL. That's a real concern that I have. So with that, if Senator Baker wants any more time, I'll give the balance of my time to Senator Baker. Otherwise, I'll return to the Chair. So you can ask Senator Baker. Thank you.

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SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Baker, would you like to use the two minutes remaining?

SENATOR BAKER: Are there any other lights on?

SENATOR CUDABACK: There are.

SENATOR BAKER: There are.

SENATOR CUDABACK: Senator Brown's light is on.

SENATOR BAKER: Okay. I don't know whether she's going to want to use her time or not. I'll...very briefly. I have to educate, I guess, some of the body yet. There are all sorts of additional requirements for anyone who holds a CDL license, dealing with alcohol concentrations--.08, that doesn't apply to CDL. You can't have...you can have .02, .04. These can get you in all kinds of problems. We're just touching one little facet of some of the requirements here...additional requirements on someone who holds a CDL. They're held to a much higher standard on a whole number of issues than just infractions and so on. So it's a whole lot bigger picture than just what this bill is, in all of reality. So I will yield the rest of my time back to the Chair, unless Senator Stuthman wants his time back. He does not. So I'd yield the time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Baker, there are no further lights on, so you are recognized to close on AM0699.

SENATOR BAKER: Thank you, Mr. President. I'm not going to take all my time, by any means. I want to repeat, though, how important this bill is to Nebraska's commercial driver's license holders. Without this, our commercial driver's license program goes down the tube. You talk about taking jobs away, we can't afford to lose these 16,000 drivers. We have major trucking companies located in the state of Nebraska. This is their livelihood--a serious matter. We need to adopt this amendment to LB 76, get the bill passed as soon as we can. As I said, the amendment has the emergency clause on it, so that we can get this in statute and comply with the federal regulations. May be

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distasteful to some of us, I realize that, but it's not an option we have to postpone this. So with that, I would encourage you to adopt AM0699, and then move LB 76 to Final Reading. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Baker. You've heard the closing on AM0699. The question before the body is, shall AM0699 be adopted? All in favor vote aye; those opposed, nay. The question before the body is adoption of the Baker amendment, AM0699 to LB 76. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Baker's amendment.

SENATOR CUDABACK: The amendment was adopted. Mr. Clerk.

CLERK: Mr. President, Senator Beutler would move to amend with FA80. (Legislative Journal page 816.)

SENATOR CUDABACK: Senator Beutler, to open on FA80.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is just a clarifying amendment that has to do with Section 12. And I think Senator Baker has had a chance to be briefed on it. I hope he has. It says...this is the paragraph that says the state, the state, must not mask, defer imposition of judgment, or allow an individual to enter a diversion program. And the language that is in the amendment would say, "The Department,"--meaning the department at the state level,--"a prosecutor or a court" shall not mask, defer imposition of judgment, or allow an individual to enter a diversion program, in other words, directing the prohibition to the people that would have the power to act in some way that was not in accordance with this particular federal and now state policy. So all it does is clarify a little bit. And I'd yield the rest of my time to Senator Baker.

SENATOR CUDABACK: Senator Baker.

SENATOR BAKER: Thank you, Senator Beutler. We have no problem

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with that. It does clarify this, and we are willing to certainly support the amendment of Senator Beutler's. It helps clarify the issue. And with that, I would urge adoption of FA80. Thank you.

SENATOR CUDABACK: Are you through, Senator Baker?

SENATOR BAKER: Unless Senator Beutler would like some time back. It is his time.

SENATOR CUDABACK: Senator Beutler.

SENATOR BAKER: Okay.

SENATOR CUDABACK: Further discussion on FA80? Seeing no lights on, Senator Beutler. He waives the opportunity to close. The question before the body is adoption of FA80, offered by Senator Beutler to LB 76. All in favor vote aye; opposed, nay. The question before the body is the Beutler amendment to LB 76. Have you all voted on the question who care to? We're voting on the Beutler amendment. Record please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: Beutler amendment has been adopted.

CLERK: Senator Flood, I have no further amendments, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 76 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 76 to E & R for engrossing. Discussion? All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 94.

CLERK: LB 94, Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

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SENATOR FLOOD: Mr. President, I move the advancement of LB 94 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 94 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 298.

CLERK: LB 298, I do have Enrollment and Review amendments, Senator. (AM7029, Legislative Journal page 689.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 298.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 298. All in favor of the motion say aye. Opposed to the motion say nay. They are adopted.

CLERK: Senator Beutler would move to amend, AM0776. (Legislative Journal page 817.)

SENATOR CUDABACK: Senator Beutler, to open on your AM0776 to LB 298.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is an amendment that's been worked on by all the parties, and all the parties are in agreement. You may recall, this is the environmental covenant bill. I think it's a bill that Senator Landis is going to be very proud of as time passes, because it's going to put a heck of a lot of land back in use. One of the things that some interested parties wanted to see was a repository of documents related to these environmental covenants where one person or one organization could go to get a handle on what was being done around the state and whether things were being followed through with, whatever purposes there is in meaningful public review. And so what the amendment does, it says that the department, the Department of Environmental Quality, will make available to the public a listing of all documents, and then it references a couple of sections. But

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basically, those sections are the sections that require the environmental covenant, and any amendment or termination of it, and any subordination agreement to be recorded in the county, and basically also requires federal agreements to be noted to the local DEQ. So it's saying that DEQ will be keeping this list of all of these environmental covenants, essentially, that will be established pursuant to this bill. We wanted, though, and several of the interested parties wanted to make it absolutely clear that this wasn't any kind of legal registry that would have any sort of effect upon the effectiveness of the covenant itself, in a legal sense. So by doing it this way, we ensure that there is no confusion about what is a legal recording. The legal recording has to be in the county where the property is located. This is just an extra list that's kept, that's not a difficult thing to do. Says the department, because they're already doing much of this, it's their intent in the future, they've indicated, to put it on the web site so that we'll have the best of both worlds. We'll have them filed and legally recorded in the counties. There will be a central kind of listing or index where you can get a handle on the big picture as opposed to the specific, and I think this works to everybody's interest. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening. Open for discussion. Senator Landis.

SENATOR LANDIS: When these conversations were going on I asked two things only, and both of those have been met: one, that there be no A bill, because it doesn't have those kinds of expenses; and two, that it not interrupt or impact the legal effectiveness of the covenants. Both of the conditions that I was concerned about have been met. I support the amendment. I endorse what Senator Beutler is doing. I'll be voting for it, and then ask for the advancement of LB 298.

SENATOR CUDABACK: Thank you, Senator Landis. Senator Preister.

SENATOR PREISTER: Thank you, Honorable President, friends all. I'd like to ask Senator Beutler and perhaps Senator Landis a question. I appreciate the work that both of you and others have done on bringing us to this point and to the amendment, and

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I was talking, Senator Beutler, so I'm not sure I caught everything that you said in your opening. But as I understand it, the purpose of your amendment is to make sure that the documents are made available, that they are public documents and that there is access to those documents, and part of the Uniform Environmental Covenants Act was to have a kind of central registry where they would be made available to the public. So in your amendment, where we're talking about documents, we are talking about all of the covenants. Is that correct?

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator, that is correct. We're talking about all the Section 9, subsection (a) documents: the environmental covenant itself, any amendment or termination of it, and any subordination agreement. That's with respect to those that are part of the DEQ requirement where they're the agency involved. And then under subsection (c) they're also required to file that, and subsection (c) requires the filing of a copy of a document recorded under (a) shall also be provided to the Department of Environmental Quality if the department has not signed the covenant. So that covers other situations, but refers back to the same...the same type of documents. So, in effect, it provides a system where they can track back the whole...the whole transaction.

SENATOR PREISTER: Okay. So if somebody did want to locate the documents, they would be able to have access to all of those informations, both the documents at the NDEQ. And when we...in your amendment, too, when we talk about the department, we are referring to the Department of Environmental Quality. Correct?

SENATOR BEUTLER: We are, Senator Preister.

SENATOR PREISTER: Okay. Thank you, Senator Beutler. The other question I would ask then, where we're...in section (a) we're dealing with the covenants that the DEQ has signed onto, so they're aware of them, then in section (c) those would be the ones that the department had not signed onto. So both would be a part of the registry or available, correct?

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SENATOR BEUTLER: That's right, Senator Preister. Exactly.

SENATOR PREISTER: Okay. And to your knowledge, do you have an estimate...or this might be a better question for Senator Landis, but the number of these covenants that will be filed in any given year? Senator Landis, could you respond, please?

SENATOR CUDABACK: Senator Landis, would you respond?

SENATOR LANDIS: Don, I have no way of knowing. I can't imagine the number will be particularly large. If we had a dozen in a year, I would be gratified by that number.

SENATOR PREISTER: And probably I would as well. I've heard the number about 12 also, Senator Landis, and I think there probably would not be a large number and so it should not be a problem. One of the comments that you made, Senator Landis, was that you didn't want a fiscal note. With that small a number and with the recording on the web site, it would seem that there shouldn't be any additional financial impact to Department of Environmental Quality. Senator Landis, could I ask you an additional question? Sorry to interrupt your work there. Just the information would be available on the DEQ web site, is that how you understand it, so it would be accessible to people to see?

SENATOR CUDABACK: One minute.

SENATOR LANDIS: I don't...I can't tell you that that's the case, but I would delegate the answering of that question to Senator Beutler.

SENATOR PREISTER: Okay. Senator Beutler, if I could get you to answer that question.

SENATOR BEUTLER: Senator Preister, DEQ was a part of the couple of meetings that were held, and they indicated that they're not presently equipped to put this on the web site. However, it is definitely their intention, they indicated, to put it on the web site when they were equipped to do that, and I think they expect to be equipped to do that sometime in the fairly near future.

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SENATOR PREISTER: Okay. So in your discussions then, as you state, they did intend to do it, perhaps not immediately. Would that also be your intent and was that what you were encouraging them to do as well, Senator Beutler?

SENATOR BEUTLER: That would certainly be my intent, and my sense of the matter,...

SENATOR CUDABACK: Time, Senator Preister.

SENATOR BEUTLER: ...Senator, was that DEQ had absolutely no problem in doing that just as soon as they...

SENATOR CUDABACK: I'm sorry, Senator Beutler, but time...

SENATOR BEUTLER: ...had general...a general ability to do it.

SENATOR CUDABACK: Time is up. (Visitors introduced.) On with discussion. Senator Schrock.

SENATOR SCHROCK: Mr. President, members of the Legislature, we've had a chance to review the amendment. I'm in support of the amendment and I commend Senator Landis for bringing the bill to us. It's something we need to do to get this land back to useful purposes.

SENATOR CUDABACK: Are you through, Senator Schrock? Senator Preister.

SENATOR PREISTER: Thank you, Honorable President. I just wanted to finish up with Senator Beutler, if I could. I wanted to make sure that the access is there for the public, and I think that was your intention as well, Senator Beutler. And sometimes people live great distances from Lincoln, so access is not always so easy to find. But would it be your intention that when NDEQ does have the information up on the web site that there would be at least some minimal information about the location of the property and some information to at least identify what was taking place?

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SENATOR CUDABACK: Senator Beutler, would you yield?

SENATOR BEUTLER: Senator, they again indicated that they would definitely give an indicator, a geographic indicator, of where the property was located, and they spoke in terms of a street address or locating it by that means as close as possible.

SENATOR PREISTER: Okay. So there would be an actual location address. Would there be any additional information, like any use limitations that would be a part of that?

SENATOR BEUTLER: They spoke of the possibility of a short description of the nature of the environmental covenant, but, Senator, I wouldn't...I wouldn't say that they committed to any long description on the web site, and the basic thrust of the discussion was to be sure that people, if they really wanted additional information, could identify the project and get back to the appropriate records and back to the appropriate DEQ files. And they would be, in some cases, perhaps, needing to do a little research, but they would be enabled to do that by this, by what the department has indicated they will do.

SENATOR PREISTER: Okay. Thank you, Senator Beutler. That's all that I would ask you. I do appreciate the work of Senator Beutler, as well as Senator Landis, in working to come with this amendment. I think it is important that people have access to the information and, especially for people who may be interested or have an adjoining property to theirs where they have concerns over what's taking place, that they can identify it through the web site and not necessarily have to come down to Lincoln. In fact, just knowing that it's there may give them enough information anyway, but then having the rest of the information filed at NDEQ and publicly available I think is very useful. So I appreciate the work that went into it. I do support the amendment and will be voting for it. Thank you.

SENATOR CUDABACK: Thank you, Senator Preister. Further discussion on the Beutler amendment, AM0776? Senator Beutler, there are no lights on. He waives closing. The question before the body is adoption of AM0776, offered by Senator Beutler. All in favor vote aye; opposed, nay. Have you all voted on the

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Beutler amendment, AM0776, who care to? Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: The Beutler amendment has been adopted.

CLERK: Senator Flood, I have no further amendments on the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 298 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 298 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 335.

CLERK: Senator, no E & Rs. Senator Schrock would move to amend with AM0780. (Legislative Journal page 817.)

SENATOR CUDABACK: Senator Schrock, to open on your amendment.

SENATOR SCHROCK: Mr. President, the amendment you have in front of you is amending LB 619 into the bill. It is the dam safety bill. Now that's spelled d-a-m, so I want to be clear on that. And this bill is to establish a statutory, codified structure for the Department of Natural Resources dam safety program. Many aspects of the department's current program cannot be traced to any specific statutory authority and are only established through the policy of the department. One of the major recommendations of a peer review of the program was to adopt a more comprehensive statutory scheme based on the Model Dam Safety Act developed by the American Society of Dam Safety Officials. There is no intent to expand the existing program or change the policy of the department concerning the program. LB 619 removes the current vagueness of the policy authority and creates a statutory framework for the program as it existed in the past. LB 619 is necessary to ensure continued federal

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funding for the program. There is a risk of losing federal funding for the program if it continues to be based on policy authority rather than statutory authority. So, if we don't do this, we run the risk of losing federal funds, because our policy now is basically based on policy and not statutes. We are not changing any policy with this. It's a rather large bill because it's technical in nature. It was supported by the committee by a 6 to 0 vote, with 2 absent, and it was endorsed by the Department of Natural Resources, who brought the bill to us and worked on it over the interim, and it was supported by the Papio-Missouri NRD; the Nebraska Association of Resources Districts; the Crow Butte Resources, and if you don't know what the Crow Butte Resources is, that's the uranium mines up in northwest Nebraska and, yes, they do impound water; and it was brought...and supported by the Lower Platte South; the Nemaha Natural Resources District; and the Washington County Planning Department. I have circulated the intent of the bill to a few people, but I will tell you it is a rather large bill. If it should become controversy and take much time, I will pull the amendment and try other avenues to do that. But I'm trying to bring a "trust me" bill to you that is not controversial but something we kind of need to do. So if anybody has any questions, I'd be glad to try and answer.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the opening on AM0780, an amendment to LB 335. Open for discussion on that motion. Senator Schrock, there are no lights on. He waives closing. The question before the body is adoption of AM0780, offered by Senator Schrock to LB 335. All in favor vote aye; opposed, nay. Question before the body is adoption of the Schrock amendment, AM0780. Have you all voted on the issue who care to? Voting on the Schrock amendment, AM0780, to LB 335. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Schrock's amendment.

SENATOR CUDABACK: The Schrock amendment has been adopted.

CLERK: Senator Flood, I have nothing further on the bill, Senator.

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SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 335 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 335 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 198.

CLERK: Senator Flood, I have Enrollment and Review amendments. (AM7031, Legislative Journal page 689.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 198.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 198. All in favor say aye. Opposed say nay. They are adopted.

CLERK: I have nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 198 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 198 to E & R for engrossing. All in favor say aye. Opposed say nay. It is advanced. Mr. Clerk, LB 10.

CLERK: Senator, I have no amendments to LB 10.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 10 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 10 to

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E & R for engrossing. All in favor say aye. And opposed, nay.
It is advanced. Mr. Clerk, LB 236.

CLERK: LB 236, Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 236
to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion by Senator Flood to
advance LB 236 to E & R for engrossing. All in favor say aye.
And opposed, nay. It is advanced. Mr. Clerk, LB 238.

CLERK: LB 238, Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 238
to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 238 to
E & R for engrossing. All in favor say aye. And opposed to the
motion say nay. It is advanced. Mr. Clerk, LB 262.

CLERK: LB 262, Senator, I do have Enrollment and Review
amendments. (AM7032, Legislative Journal page 690.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R
amendment to LB 262.

SENATOR CUDABACK: You've heard the motion to adopt the E & R
amendments to LB 262. All in favor of the motion say aye. And
opposed to the motion say nay. They are adopted.

CLERK: I have nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

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SENATOR FLOOD: Mr. President, I move the advancement of LB 262 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion by Senator Flood to advance LB 262 to E & R for engrossing. All in favor of the motion say aye. And opposed to the motion say nay. It is advanced. Mr. Clerk, LB 355.

CLERK: LB 355, Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 355 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion by Senator Flood to advance LB 355 to E & R for engrossing. All in favor say aye. And opposed, nay. It is advanced. Mr. Clerk, LB 211.

CLERK: LB 211, Senator, first of all, I have Enrollment and Review amendments. (AM7033, Legislative Journal page 690.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 211.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments. Senator Chambers.

SENATOR CHAMBERS: Mr. President, it's been said that an idle mind is the devil's workshop. I just want it known that I don't work in idle minds, but I do work. I will make use of idle minds, not as workshops, but as recreation facilities. I was thinking about offering an amendment of my own on this bill. By way of introduction, I was given a commission by a mortician to write a national anthem for those who do plant them. And I wrote it, and it's a song, and I can't sing, but if I could, it would be sung to the tune of "These Are a Few of My Favorite Things." And it will go...I'm just going to read you one verse, because there's another bill on General File where I might make

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a more serious effort at amending: Corpses, condolences, flowers, a coffin, / Black-curtained hearse that they carry you off in, / Tombstones and epitaphs with verbal stings, / These are a few of our favorite things. The morticians. Do you want to hear more? The house seems evenly divided, so I'll take that as (laughter) a desire to maintain status quo and I will terminate for this morning. Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion, adoption of E & R amendments to LB 211? Seeing none, all in favor of the motion say aye. Opposed to the motion say nay. They are adopted.

CLERK: Senator Don Pederson would move to amend, FA71. (Legislative Journal page 661.)

SENATOR CUDABACK: Senator Pederson, to open on your amendment.

SENATOR D. PEDERSON: Mr. President, members of the Legislature, as I read the green copy of this after we went through the bill, I saw some grammar and some construction that I thought needed to be changed, and the way it goes, in the green bill, it says, "each city, village, township," and so on, and cemetery district, and any other person which owns, operates, or maintains, and I don't think "persons" are "which," so I'm asking to strike "which" own (sic), operate (sic), and the word maintain (sic), and in its place put "any other person owning, operating, or maintaining a cemetery." That's the gist of the amendment.

SENATOR CUDABACK: Thank you, Senator Pederson. Heard the opening on FA71 by Senator Don Pederson. Open for discussion. Senator Janssen.

SENATOR JANSSEN: Thank you, Senator Cudaback and members of the Legislature. Senator Pederson had brought this to my attention and offered the amendment, in which I agree with. I don't know whether there's any witches in cemeteries or not, but (laugh) maybe this is why you want to change it. But it does make the bill better and I will support the amendment. Thank you.

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SENATOR CUDABACK: Thank you, Senator Pederson (sic). Senator Chambers.

SENATOR CHAMBERS: No more of the national anthem of those who plant them, but I do have a question about this. If I heard Senator Pederson correctly, there is a series of words, with "person" being the last word in the series, so if Senator Pederson would read that series again for me it would help clarify my thinking on this.

SENATOR CUDABACK: Senator Pederson.

SENATOR D. PEDERSON: Okay. In the green copy, it says "Each city, village, township, county, church, fraternal and benevolent society, cemetery district, cemetery association, mausoleum association, and any other person which owns, operates, or maintains a cemetery."

SENATOR CHAMBERS: Now, here is the question that I would ask. What is being referred to is the owning or operating or whatever that is, but not only a person is considered, but also a mausoleum society and these others. So if you were going to look at these other entities which could own or operate this cemetery facility, you could conclude that they are composed of persons, so "who" would be the appropriate pronoun. But if they're being looked at as entities, then "which" would be appropriate. So the problem might not be with the word "who" or "which," but the construction of the series. And those are some of the problems that grammarians encounter, and those who are concerned about syntax and the proper construction of sentences will have to puzzle over. I wonder who, other than Senator Don Pederson, would notice that. And I will bet that Senator Pederson, without looking at his cribnote, could not give me a listing now of all the groups that comprise that series. Senator Don Pederson, while looking at me, would you tell me that listing again of those groups and entities. Ah, keep it eyes up.

SENATOR D. PEDERSON: I don't know that I was looking at it from a sense of memorizing each one of them, but they're a generic class that would all fit within the...within this construction,

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including cities, mausoleums, cemeteries, cemetery districts, and...

SENATOR CHAMBERS: So would a city be a who?

SENATOR D. PEDERSON: Not necessarily, but what I'm doing, I think, eliminates the concern as to whether it's "which" or "who." I think what I have done is to change the wording and it's a generic thing then which refers to all of them, saying any of the above owning, operating, or maintaining. And so I think that that's the nature of the construction.

SENATOR CHAMBERS: Senator Don Pederson, one of my female colleagues has come to your assistance, pointed out that in her opinion you are absolutely correct, that I am positively wrong, and without reading the language myself and inserting and deleting what would have to be done, I'm going to accept what I've been told and applaud you for having brought this correction to the statutes. And I hope that on more substantive matters we will be equally careful with the way we utilize language to express ideas. Because until we change a statute by amendment, you can say these are words written in stone. So I appreciate the fact that...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...Senator Don Pederson, with assistance from Senator Nancy Thompson, has improved my education this morning. What I need to do is listen better, read the amendment that's offered, and incorporate it into the text that is being amended. So, "Professor" Don Pederson, I'm not going to say I'm eternally grateful because this isn't quite that heavy a matter, but for the moment, I'm grateful. Thank you.

SENATOR D. PEDERSON: We won't (microphone malfunction) here with this.

SENATOR CUDABACK: Thank you, Senator Chambers.

SENATOR D. PEDERSON: Thank you.

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SENATOR CUDABACK: Thank you. Any further discussion? Seeing none, Senator Pederson, did you wish to close on FA71?

SENATOR D. PEDERSON: I would just say I think we have adequately discussed this matter and I would ask your approval of this change in the statute. And I think that it's carefully...we should each carefully look at these matters in the statute because these are going to be with us for a long time. And I think things such as this show that, that we are consistent and that people who read it in the future will know what we mean. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. The question before the body is adoption of FA71 to LB 211. All in favor of the motion vote aye; those opposed, nay. The question before the body is FA71, offered by Senator Don Pederson. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Pederson's amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: I have nothing further on the bill, Senator Flood.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 211 to E & R for engrossing.

SENATOR CUDABACK: The motion is to advance LB 211. Open for discussion. Senator Chambers.

SENATOR CHAMBERS: Mr. President, you can call me the echo, because I got to have the last word, and maybe I won't get it, but somebody said that although we're talking about cemeteries and dying, this was one of the livelier discussions that we've had this morning. (Laughter)

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion? You've heard the motion to advance LB 211 to E & R

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Engrossing. All in favor say aye. Opposed to the motion say nay. LB 211 is advanced. Mr. Clerk, LB 211A.

CLERK: LB 211A, Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 211A to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 211A to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced.

CLERK: Mr. President, an announcement, if I may. Executive Board will meet at 11:00 underneath the south balcony; Exec Board, 11:00.

SENATOR CUDABACK: Thank you, Mr. Clerk. Mr. Clerk, LB 284.

CLERK: LB 284, Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 284 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 284 to E & R for engrossing. All in favor say aye. Those opposed, nay. It is advanced. Mr. Clerk, LB 139.

CLERK: LB 139, Senator, I have Enrollment and Review amendments. (AM7034, Legislative Journal page 690.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 139.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 139. All in favor say aye. Opposed, nay.

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They are adopted.

CLERK: Nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 139 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 139 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 441.

CLERK: LB 441, no E & R. Senator Louden would move to amend with AM0351. (Legislative Journal pages 818-819.)

SENATOR CUDABACK: Senator Louden, you're recognized to open on AM0351.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. AM0351, as an amendment to LB 441, is my bill, LB 330. LB 330 is on General File and having been advanced from Agriculture Committee with no dissenting votes and without amendments. If adopted, AM0351 will allow the registration of brands on the ribs of a live animal, as described in Chapter 54, Section 199, subsection (2)(a) of our Nebraska statutes. At the present time, brands can be applied to the ribs of livestock, but the statute prohibits the recording of new rib section brands after September 6, 1991. All rib brands that were recorded before that date remain valid. Fourteen years ago a trade association brought forward the idea of prohibiting rib brands. It was claimed that this would increase the value of cattle, and any increase in value has been minimized at best, and Nebraska is the only state that prohibits registration of new rib brands. Whether or not rib brands increase or decrease livestock value should be left to the marketplace. That is the arena that decides value. If an animal is traded or sold to another owner, putting a new ownership brand on the hip can result in a brand overlapping a previous brand, making the brands difficult to identify. We've already had some of those problems this year. I've talked to...I think Senator Jones was

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in the other day and had an animal in his...at his ranch that they can't identify the brands because they've been two brands overlapped. So this is a problem with allowing different places to have the brands. With my own personal experience, if an animal I acquire is already branded, then I do not apply my brand to the same location but use another location where I've registered the brand. This makes identification much easier. At the present time, many owners are only allowed to brand on the hip area, and if they have acquired an animal that has been previously branded on the hip location, they have no alternative but to apply the brand in the same area, sometimes resulting in an indistinguishable blotch. Statutes should be in place to support and improve efficiency of commerce and our citizens who are engaged in commerce. The prohibition of new rib brands was enacted 14 years ago to increase the value of livestock. It didn't happen, and other states did not join in the effort. If the idea had increased the value of livestock, other states would probably have adopted the same policy. No other state has done so. It has been a detriment to those livestock owners that use hot-iron brandings as a means of identification on the vast cattle-producing areas of Nebraska. Branding is a necessary tool on western ranches. Not allowing the registration of rib brands denies the Brand Committee revenue and also locations to record new brands. Also, the present wording in statute places a hardship on brand owners who may inadvertently let their brand registration lapse. If a rib brand lapses, the owner can renew it at a rib location. Some of these brands have been in a family for three or four and sometimes more generations. A brand on any other area of an animal can be renewed if the owner inadvertently lets it lapse. It's unfair to treat brand owners differently based on where their animal...the brand is placed. LB 441 allows the Brand Committee to raise the fee for inspection in order to increase revenue. My amendment, LB 330, increases the revenue for the Brand Committee. The Brand Committee testified in support of the LB 330 and stated that in the past 14 years the committee has received 3,000 applications for new rib area brands. These have all been turned down because of the prohibition. Allowing registration of rib brands would not only increase the revenue, but will also make life easier for those livestock owners that use and need livestock brands. I urge your adoption of this amendment. Thank you.

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SENATOR WEHRBEIN PRESIDING

SENATOR WEHRBEIN: Thank you, Senator Louden. Senator Kremer.

SENATOR KREMER: Thank you, Mr. President, members of the body. This bill was heard in the Agriculture Committee. I did have some real reservations about it, but we are the only state that does not allow rib branding. The purpose of it was to increase the quality of hides, and it seemingly hasn't been very effective, since we're the only state that's done it and there have not been discounts or any advantages to the rib brand, as far as we can tell, as far as the packers, whether they pay more or less, if it really does bother them. But it does, I think, cut down on the value of the hides that are made into leather, if it does have a rib brand right in the middle of the hide. But it seems like they have not really followed through on that. If they would start saying we're going to discount from the price they pay, I think it would make people very quickly stop rib branding. The Nebraska Cattlemen does have a program called the Beef Quality Assurance Program, which encourages people to do things that would be in the best management and the best profitability of the beef industry. One is the location of vaccination. One is the brand on the rib. But since it's not been utilized very much, and Senator Louden did ask if he could attach this on here, it is...fits very well because it both has to do with the Brand Committee and they do need more funds. I think they did say it would bring in \$15,000 a year. I question that because the brand registration costs \$15, so it would be 1,000 new registrations a year. I don't think it would ever be that much, but any amount does help. I think if it ever got to the place where they would discount for having rib brands, then people would stop using it, and those that participate in the Beef Quality Assurance Program do voluntarily use practices that would be...that would be profitable. So if they're in that program, they're probably not going to use rib branding anyway. Another thing also, those that have been using rib brands are grandfathered in, so many of them keep those brands up, or most of them, for year, after year, after year, so they're still using it, so I don't think it's been very effective. So I will even reluctantly support Senator Louden's amendment. Thank you.

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SENATOR WEHRBEIN: Thank you, Senator Kremer. Senator Fischer.

SENATOR FISCHER: Thank you, Mr. President and members of the body. I, too, rise in support of Senator Louden's amendment to LB 441. As Senator Kremer stated, there is currently no advantage for beef producers not to rib brand, because we don't receive any more money from packers for our hides if there's a hip brand instead of a rib brand. Also, it is the choice of the individual producers where they want to brand their cattle. And I realize Nebraska Cattlemen, they do have the Beef Quality Assurance Program, which does not encourage rib branding for the purposes of selling hides, but I believe as long as the individual producers are not themselves receiving any benefit from the packer for the hide, there is no reason that we should eliminate rib branding. So I do rise in support of the amendment. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Further discussion? (Visitors introduced.) Further discussion on the Louden amendment? There are no lights on, Senator Louden. You may close, if you care to.

SENATOR LOUDEN: Thank you, Mr. President. Just a short word. I want to thank the senators that have supported this, and this is truly something that will help the livestock industry on our day-to-day maintenance and working with our cattle in western ranches. Thank you.

SENATOR CUDABACK: Heard the closing on AM0351. All in favor of adoption of AM0351 vote aye; opposed, nay. Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Louden's amendment.

SENATOR CUDABACK: The Louden amendment has been adopted.

CLERK: I have nothing further on the bill, Senator.

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SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 441 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 441 to E & R for engrossing. Open for discussion? Senator Landis. He does not care to speak. Any further discussion on the advancement? All in favor of the advancement, LB 441 to E & R for engrossing, say aye. Those opposed, nay. It is advanced. We will now move to Select File, 2005 senator priority bills. Mr. Clerk, LB 66.

CLERK: LB 66, Senator, I have Enrollment and Review amendments, first of all. (AM7021, Legislative Journal page 634.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 66.

SENATOR CUDABACK: Heard the motion to adopt the E & R amendments to LB 66. Senator Landis, your light is on. Did you wish to discuss the E & R amendments? He does not. The motion before the body is adoption of E & R amendments to LB 66. All in favor say aye. Opposed, nay. They are adopted.

CLERK: Senator Landis would move to amend with AM0606. (Legislative Journal page 637.)

SENATOR CUDABACK: Senator Landis, to open on AM0606.

SENATOR LANDIS: Thank you. Let me get this in the right time and place. This is it. Bob Hans, who's on the TERC commission, suggested this idea, because after having looked at LB 66 he said that there was a harmonizing amendment, with respect to the appeal process, that would be wise. This amendment allows the county assessor to appeal a decision of the state historic preservation officer within 30 days of the decision. Currently under LB 66, only the owner may appeal such a decision; therefore, only the decisions that could ever be appealed would

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be decisions to deny the benefits under the act as opposed to granting benefits under the act that perhaps should not be granted. The amendment would grant standing to the county assessor to appeal decisions to grant historic rehabilitation value. This amendment is patterned after an existing rule that we follow with respect to property tax exemptions, which can be appealed by either the county or the property tax owner who's seeking the exemption. The owner may appeal the denial of an exemption, and the assessor may appeal the grant of an exemption. The assessors appeal exemptions rarely, but it does happen, and I would guess that would be even more true in the case of LB 66, that it would be even more rare to have this apply. However, it seems to me that you should have standing for both sides of the question so that they can both appeal decisions should they be adverse to that party's interests. I think Senator Pederson has no objection to the amendment, and I would ask for its adoption.

SENATOR CUDABACK: You've heard the opening on AM0606. Open for discussion. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. Senator Landis is correct, I do not have any objection to this. I think we better hurry with this bill before the TERC board looks at it again and finds some other minor thing that we need to correct. This is appropriate that we have a process for the assessors to file objection, and I think we should go forward with it. I really can't imagine that it would occur, but it's always possible so let's provide for that opportunity. So, with that, I would recommend that we go forward with the amendment, AM0606.

SENATOR CUDABACK: Thank you, Senator Pederson. Further discussion on the Landis amendment? Senator Landis waives closing. The question before the body is adoption of AM0606 to LB 66. All in favor vote aye; opposed, nay. Question before the body is adoption of AM0606, offered by Senator Landis to LB 66. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of

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Senator Landis' amendment.

SENATOR CUDABACK: The Landis amendment has been adopted.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR CUDABACK: Senator Flood.

CLERK: Mr. President, I'm sorry, I do. I have, Senator Landis, you wanted to withdraw AM0720, is that right, Senator? Thank you. That's all that I had, Mr. President. Excuse me.

SENATOR CUDABACK: It is withdrawn. Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 66 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion, advancement of LB 66 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 66A.

CLERK: LB 66A, Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 66A to E & R for engrossing.

SENATOR CUDABACK: Heard the motion to advance LB 66A. Discussion? All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 71.

CLERK: LB 71, Senator, I have Enrollment and Review amendments, first of all. (AM7024, Legislative Journal page 647.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 71.

SENATOR CUDABACK: You've heard the motion to adopt the E & R

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amendments to LB 71. All in favor say aye. Opposed to the motion say nay. They are adopted.

CLERK: Mr. President, Senator Mines would move to amend with AM0627. (Legislative Journal page 809.)

SENATOR CUDABACK: Senator Mines, you're recognized to open on AM0627 to LB 71.

SENATOR MINES: Thank you, Mr. President. Colleagues, at the concurrence of Senator Stuhr, the primary introducer of LB 71, this amendment would...originally began as LB 688 that was heard in the Banking Committee, Banking, Commerce and Insurance Committee, and at the time LB 688 would permit the financing of military housing to be occupied by military personnel serving on active duty. A second component of that bill was to increase the agricultural program loan and net worth limitations. The committee did vote to "IPP" that bill, and the discussion in committee centered around the broad authority given to military housing and contractors that also served the military. On that premise, the board or the...yeah, the committee decided to "IPP." Upon further review, it made some sense to me that we strip out the military portion of LB 688 and introduce for your consideration the ag provision, and primarily what this will do is allow NIFA to access new federal resources. These are called new market tax credits, and they've only recently become available. The program is used only for agricultural endeavors and up to an amount of \$500,000. This is not state money. This is federal money that NIFA will access and then, through their process with local banking and financial institutions, would help buy down the interest rate for our ag community. It's only available to small users if an intermediary, such as NIFA, prepares a comprehensive application and agrees to administer the program and, obviously, in compliance with federal regulations. NIFA, this isn't new to NIFA. They've made application for the allocation of these credits. If awarded, the program could assist in improving the economic conditions in the agricultural community, aid in the transfer of property. We have many young farmers that are land rich, cash poor, and this financing mechanism would certainly help them in their expansions. The amendment proposes changes to NIFA's

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agricultural loan program definitions by removing net worth tests for borrowers, and increases the maximum loan amount provided by NIFA from \$250,000 to \$500,000. And, by the way, that's in conformance with the new market tax credit program. Nebraska's net worth limitation or provision attempts to provide an additional test over and above federal law of smaller farmer eligibility. The mechanism is seen to discriminate against conservative ag producers who encumber their property or operations with long-term debt, in effect penalizing those ranchers and farmers and ag producers that pay down their debt, and this would allow them, from a net worth perspective, to participate in the program. The loan limit of \$250,000 has not been reviewed or adjusted since 1991, and it was modified to conform then to federal tax-exempt bond loan program. Because of the outdated loan and net worth limits in the NIFA Act, Nebraska risks being unable or allowed to be conservative and productive small farmers and ranchers and stands in the way of NIFA accessing these funds. With that, I will entertain any questions, Mr. President. Thank you.

SENATOR CUDABACK: Thank you, Senator Mines. You've heard the opening on AM0627. (Visitors introduced.) On with discussion of the Mines amendment, Senator Stuhr, followed by Senator Beutler.

SENATOR STUHR: Thank you, Mr. President and members of the body. When another senator comes to you and asks you to put on an amendment when your bill is on Select File, you always become a little hesitant. But after learning about this proposal, I am supportive of the amendment because I feel that it is a very good fit for this bill. It does give another tool that could assist in improving the economic conditions for our rural areas, and I do want to emphasize that there is no cost to the state. As Senator Mines pointed out, it is merely changing the statute in several areas, and the first one, there were two provisions, and he did go over those but, again, it changes the loan limit from \$250,000 to \$500,000. I think any of you that are involved in small businesses would appreciate, with increasing values, that it is necessary to raise that amount. So that is the first provision that we're asking for a change, and the second was to change the provision relating to the net worth. It is our

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understanding, from a meeting this morning with NIFA officials, that most other states have not included a provision relating to net worth in their statutes. So what we're attempting to do is strike that provision and so that we can be on a level playing field with other states across the country. Just another point, that these loans will probably be used for equipment and/or adding maybe another operation to a present ag operation, and that's why I feel that actually I'm supporting the amendment, because it is a good fit, providing extra agriculture opportunities and also related to value added. And so this amendment enables NIFA to use new federal resources and this would be a great help for our farmers and ranchers, and especially Nebraska's first-time and beginning farmers and ranchers. So I do support the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Further discussion? Senator Beutler, on the Mines amendment.

SENATOR BEUTLER: Senator Mines, just a couple questions, if I may, or maybe I should address them to Senator Stuhr. I'm trying to work my way through this amendment and I'm trying to understand the mechanics of this. What...the only thing I can identify so far that is actually a significant policy decision is the removal of the limitation on individual net worth, and I understand, from Senator Stuhr's remarks, that many other states or most other states don't have this kind of limitation, but obviously Nebraska made the decision that this program was designed to help the smaller half or some portion of the farm population and not the largest producers, apparently. Can you...well, first of all, does this change in net worth in any way...will it, in any way, keep Nebraska from getting any funds? If we do not change the net worth, will we be able to use all of the funds available to us?

SENATOR CUDABACK: Senator Mines, would you...

SENATOR MINES: Thank you, Mr. President.

SENATOR BEUTLER: I'm not understanding the relationship here between this change and...

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SENATOR MINES: Senator, I'm not sure if your question about Nebraska not being able to use all our funds, if I understand that correctly.

SENATOR BEUTLER: Well, let's start at the beginning. What's the purpose for changing the policy of the state that this program should apply to the smaller farmers?

SENATOR MINES: Okay. The limit as set now I think is \$300,000 of net worth, and in today's environment your net worth, simply by owning land, is...you're going to blow by \$300,000 pretty quickly. In fact, equipment, it doesn't take much to have \$300,000 in equipment or net worth. The federal program has a net worth exemption or cap, doesn't have a cap on net worth, and in fact, you know, rather than raise the net worth cap to some arbitrary number, it could make some sense, and I'm not saying that we would exclude anyone, actually we include everyone, if we just eliminate any cap on net worth. It's common in other states and it, in fact, I don't think would impact the overall program dramatically.

SENATOR BEUTLER: Is...tell me again what the purpose of this program is. Is it the purpose of this program is to get partially subsidized or more low-interest loans? Is that the purpose of the program?

SENATOR MINES: Is to make available lower interest loans to ag producers, ranchers and farmers, up to half a million dollars, if the amendment is approved.

SENATOR BEUTLER: Okay. And so with this change, though, you're not putting a new cap on net worth, but you're basically saying that any farmer, no matter what their net worth is, the very largest ones could benefit from this program as well as the average and smaller ones. Is that accurate?

SENATOR MINES: Well, I think it's accurate, but for the NIFA board that does approve the allocation of those low-income or, excuse me, low-interest loans, the board does decide where the money is to be distributed.

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SENATOR CUDABACK: One minute.

SENATOR MINES: So I think you've got a...you've got a board fully engaged in the process that would, I would assume and hope that they would, make decisions based on not large producers but small producers, and those small producers could have a net worth of a million dollars.

SENATOR BEUTLER: Well, was any thought given to raising the net worth? How long ago was the net worth cap set in place?

SENATOR MINES: 1991.

SENATOR BEUTLER: So it's been about 14 years or so.

SENATOR MINES: It's been awhile. Yeah, it's been awhile. And again, to pick an arbitrary number, to pick a million dollars or two million, we see all around us that the net worth cap has been removed so we just went with that.

SENATOR BEUTLER: Well, if part of this program is designed for beginning farmers, wouldn't it make some sense to encourage that purpose by having a net worth cap?

SENATOR MINES: I think, in principle, you're right. In practice, a young farmer that inherits, as an example, a significant amount of property but doesn't have the cash to perhaps invest in new processes, new machinery, is excluded from that process, and I think those are the kind of folks we don't want to hurt either, those that when you take a look at the net worth on the ledger it looks fine, but they have no operating capital or can't enter into any other lines because they don't have the cash.

SENATOR BEUTLER: You know, I'm just trying to thread my way through this a little bit.

SENATOR CUDABACK: Time.

SENATOR BEUTLER: General...

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SENATOR CUDABACK: Thank you, Senator Beutler. Senator Louden, followed by Senators Wehrbein, Stuhr, Mines, and Beutler.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I rise in support of this amendment. When this bill was before us in the Banking Committee, it was quite extensive and got into some veterans...or, not veterans, but military housing, and we thought there were probably other ways that that could be addressed. And it was all one bill, so we more or less sunk the whole...the whole thing. It raised that net...the cap from \$250,000 to \$500,000, and also changed the net worth. I think it took the net worth out of there. And I've had some young farmers contact me over the last of couple years to find out ways that they could start farming, and with the system we had at the present time, it was nearly useless what we had. The time they...if they had any net worth, such as any machinery or anything like that, the time they got any capital to raise, why, they were usually over the limit and wasn't allowable. If they had inherited some land and wanted to go purchase machinery so they could start farming, their net worth was then over the top so that that really didn't help beginning farmers get started into the business. I think this is something that will really help the industry and we certainly need to encourage people to get into the farming and ranching business. And this really isn't a giveaway. It's mostly a guarantee on their loan, is my understanding, so that there is a way that they can get financing through banks and participating lending institutions that do this. So I'm firmly in favor of this amendment to LB 71. Thank you.

SENATOR CUDABACK: Thank you, Senator Louden. Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President, members, I hesitate to get involved. I don't know whether Senator Beutler is kind of tied up, but I think the real response to this is, Senator Beutler, it takes such an enormous amount of capital today that if...I'm trying to get at the heart of your question and I'd be willing to have you ask it again or at least what you're getting at. But the caps, when...just say you even by a simple 80 acres, which doesn't do much for you anymore, it's easily \$200,000, probably more like \$204...more like \$3,000 an acre, and

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if...even if you have the net worth of a couple hundred thousand and you have to tie into another quarter, another 80 acres, you're not going to get the money unless you have quite a bit to back you up, because you're not going to pay for \$200 and...\$2,500-\$3,000 an acre land on its own, so you have to use other assets. If you have to have other assets, they've got to be free and clear or...to get your net worth. And so the issue is that the capitalization in the last 15 years has risen enormously. And so the limit on the...it still leaves a limit of \$500,000, which is only a quarter section in many areas of the state. Three thousand dollars an acre times a hundred and sixty is four hundred and eighty thousand, so you're...right there is your...so we're only allowing a loan limit of a hundred and sixty acres at this point. Well, you're not going to buy another quarter section of land with \$250,000 (laugh)...\$250,000 net worth and make it work, because you don't have enough backing of other assets behind that quarter section that you can't farm out at \$3,000 an acre. So it's really modernizing this. I strongly support this and just the fact that you have to handle so much money. Somebody was just telling me, you know, it's possible to have an overdraft of \$50,000 today on a checking account simply because timing isn't good. So we're dealing with a lot of dollars and even the small operators are in that same boat. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Stuhr. Is Senator Stuhr on the floor? We will go to...okay. Senator Stuhr.

SENATOR STUHR: Yes. Thank you, Mr. President and members of the body. A couple clarifications: The provision relating to the net worth was actually in the bill 25 years ago, so it is a provision that is certainly outdated as far as the amount of \$300,000. And I know that Senator Mines also stated that there is a committee made up of, I think, farmers, bankers, a vast array, a group of people that look at those applications and then try to make the best decisions on those that are the most needy, so that there is a prioritization effort. But if the body feels that there still should be a cap, I think that we could probably work out something, and if they feel that that needs to be in there. What we were saying is that most states

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have removed that provision from their state statutes. With that, I turn the rest of my time back to the floor. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Mines, on your amendment.

SENATOR MINES: Thank you, Mr. President and colleagues. The...I think the very core of this is the...it's an administration of federal funds that Nebraska Investment Finance Authority is going to engage. This isn't...these aren't Nebraska dollars. These are federal dollars that funnel through a facilitator, which would be NIFA, and then they also partner with local financial institutions and buy down the price of interest to agriculture communities and farmers and ranchers. And I know that there's discussion on the floor about limits and I think that is really one of the main points here, is should our net worth be eliminated or shall we simply raise it to a number. The initial thought was let's not pick a number; let's conform with the federal standard, no net worth cap, and that way we don't have an arbitrary figure that we may have to come back and fix some time later. Mr. President, I would like to yield my time, Mr. President, to Senator Connealy.

SENATOR CUDABACK: Senator Connealy, would you yield?

SENATOR CONNEALY: Thank you, Mr. President. Thank you, Senator Mines. Yeah, I thought maybe I'd just give a little background. As we talk about these numbers, it's, you know, it's kind of daunting. Ground in my area is \$2,500 to \$3,000 an acre, you know, so we're talking about 200 acres paid off to be at a \$500,000 cap. Combines are extremely expensive these days, and Senator Schrock can testify to that. By able...by bringing people in that have a little bit more resources, you do allow a, you know, higher degree of ability to make success, and so it's not necessarily bad to bring somebody in with some resources to start, and these are beginning farmers. So I would agree with eliminating the cap, I'd agree with raising the cap to some level higher than it is now, but I think that we ought to try to get these people into agriculture, because we do need new people coming into the state to work our land and to provide these...this human capital in our rural communities. So I'd

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encourage the passage of this with whatever cap we can agree on as we work through this. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Connealy. Senator Beutler. Senator Beutler, on the Mines amendment.

SENATOR BEUTLER: Senator Wehrbein, could I...I appreciate your explanation of things. Let me...let me explore this bill a little bit further with you in terms of this cap, if you don't mind.

SENATOR WEHRBEIN: (Microphone malfunction) I'm not an expert. I'm not an expert...

SENATOR CUDABACK: Senator Wehrbein.

SENATOR WEHRBEIN: ...on it. I just...

SENATOR BEUTLER: Are you...

SENATOR WEHRBEIN: I'm not an expert. I just...

SENATOR BEUTLER: You're far and away more of an expert than I am, but I'm just...I'm just trying to grope to understand some of the basics. But it...I think I'm right in characterizing this program as a program that gives advantageous interest rates. I mean, it's a subsidy of sorts.

SENATOR WEHRBEIN: And I...

SENATOR BEUTLER: Would that be accurate?

SENATOR WEHRBEIN: Yes. And, by the way, it's to businesses, housing programs, hospitals, first-time farmers and ranchers, and community development endeavors. It has a broad range, NIFA does.

SENATOR BEUTLER: Okay. And if this is basically a subsidy program, God knows some of the farmers need help in that regard, but wouldn't it be...wasn't the original policy that distinguished larger farms from bigger farms, didn't that make

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some sense in terms of applying the subsidy to those who need the subsidy most? I mean, I don't...

SENATOR WEHRBEIN: The interest rate subsidy in this case, yes.

SENATOR BEUTLER: Pardon me?

SENATOR WEHRBEIN: The interest rate subsidy in this case.

SENATOR BEUTLER: Yeah. It seems to me isn't there a pretty good argument that...I mean, I understand, although I didn't see in the amendment anywhere, and correct me if I'm wrong, Senator Mines, but I didn't see anything that directed NIFA to look to the most needy first and to proceed up the food chain to those producers who are already doing well. And let me redirect that question to you, Senator Mines. Is there anything in there that directs NIFA to allocate funds first in favor of those that are more in need of the subsidy?

SENATOR CUDABACK: Senator Mines, would you...

SENATOR MINES: Thank you, Mr. President. Senator, no, there is not; however, the fail-safe, if you will, in that process would be the board itself, which administers those funds. You would...again, I don't know for sure. I would hope that they do funnel funds to the most needy first and it progresses up the line, but I can't tell you they do.

SENATOR BEUTLER: Senator Wehrbein, let me go back to you again.

SENATOR CUDABACK: Senator Wehrbein, would you yield?

SENATOR BEUTLER: My problem here, to a certain extent, is that I don't know how to effectively...I don't know what increase in the cap effectively reestablishes that policy debate that took place some time ago in this Legislature that decided that there would be a \$250,000 cap at that time. You know, somebody, we need more information or something. But if this cap were doubled, for example, do you think that would be roughly equivalent to avoiding on Select File here, shortly before noon, in a constricted time period, avoid a wide-open debate on

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changing the policy? In other words, we could just proceed, get this much done, liberalize things in terms of net worth, as it seems obvious to me we must do, but to what extent? I mean, would something like that be in the area of a reasonable compromise?

SENATOR WEHRBEIN: Well, I would say that this is Senator Mines' bill and he's...I think he's trying to follow other states. Certainly going from a \$250,000 net worth cap to a \$500,000 cap would be better than what it is, and I'd leave that up to Senator Mines, if he was willing to accept that. My only issue, and I have my light on,...

SENATOR CUDABACK: One minute.

SENATOR WEHRBEIN: ...I won't take any more time, but my only issue is that we're at the state in agriculture today that even a small-time, part-time, moderate-sized farm is dealing in huge dollars, like it or not. And when you tie into the example I gave, 160, which is pretty big order for any small farmer, that's approaching a half a million dollars. And so you have to have other assets to back it up or you're not going to get the loan. And so I'm not current on what the NIFA interest break is. I assume it's a cent and a half, or one and a half, maybe two cents, so it's probably in the 3 to 4 percent range. But I won't take any more time.

SENATOR CUDABACK: Time. Senator Connealy. Is Senator Connealy on the floor? Senator Connealy. We'll move on to the next speaker, Senator Wehrbein. Senator Wehrbein waives his opportunity to speak. Senator Redfield.

SENATOR REDFIELD: Thank you, Senator Cudaback. Members of the body, this was a bill that was heard in the Banking and Insurance Committee, and it contained some other elements at that time, but I wanted to bring to the body's attention the fact that that bill was "IPPed" and so, when you vote, we're going to need 30 votes if you want to adopt this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Mr. Clerk, a

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motion.

CLERK: Mr. President, Senator Beutler would move to amend the Mines amendment. (FA81, Legislative Journal page 820.)

SENATOR CUDABACK: Senator Beutler, to open on your amendment.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, Senator Stuhr and Senator Mines are agreeable to a \$500,000 cap instead of \$250,000 and, although I want to personally remain flexible on what the right cap is, if we're going to make a major policy decision like this on Select File at this hour, I would hope that if everybody is roughly agreeable to doubling the cap that that might be a way of resolving this problem at this particular point in time. I'm not pretending to know exactly what's right here, but I know that what is in the white copy represents a major policy change, at least on the surface, and absent something in the statute that requires that this subsidized rate be applied to those who need it most, then absent that I would...I would think it would be appropriate to have...to continue to have a cap, albeit obviously it needs to be much higher. So I would recommend to yourselves this particular amendment, which doubles it from \$250,000 to \$500,000.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on FA81 to AM0627. Open for discussion. There are no lights on, Senator Beutler. He waives closing. The question before the body is adoption of FA81 to AM0627. All in favor vote aye; opposed, nay. The question before the body is adoption of the Beutler amendment, FA81. Have you all voted on the Beutler amendment who wish to? Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: The Beutler amendment has been adopted. Back to discussion of the AM0627. Senator Mines, there are no lights on. You're recognized to close on AM0627.

SENATOR MINES: Thank you, Mr. President. Body, thank you very

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much for your attention and interest. I might remember or...I might remember. I might remind those on the floor that this does take 30 votes and this...the agreement has been worked out on the cap. This is a wonderful tool, I believe, that NIFA can use to help ag producers, farmers and ranchers, and specifically those new producers gain a step up. So I would urge your adoption of AM0627. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. You've heard the closing of AM0627. The question before the body is, shall AM0627 be adopted? All in favor vote aye; opposed, nay. Voting on the adoption of AM0627, offered by Senator Mines to LB 71. Record please, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Mines' amendment.

SENATOR CUDABACK: The Mines amendment has been adopted.

CLERK: I have nothing further on the bill, Senator Flood.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 71 to E & R for engrossing.

SENATOR CUDABACK: Heard the motion to advance LB 71 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 71A.

CLERK: Senator Flood, I have no amendments to LB 71A.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 71A to E & R for engrossing.

SENATOR CUDABACK: Heard the motion to advance LB 71A to E & R for engrossing. All in favor of that motion say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 264.

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CLERK: LB 264, Senator, I have Enrollment and Review amendments, first of all. (AM7035, Legislative Journal page 732.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 264.

SENATOR CUDABACK: Heard the motion to adopt the E & R amendments to LB 264. All in favor say aye. Those opposed, nay. They are adopted.

CLERK: Senator Thompson would move to amend with AM0756. (Legislative Journal pages 821-822.)

SENATOR CUDABACK: Senator Thompson, you're recognized to open on AM0756 to LB 264.

SENATOR THOMPSON: Thank you, Mr. President. LB 761 was introduced and amended by the Government Committee and it deals with the makeup of the Foster Care Review Board. This is the compromise that was advanced by the committee and it would strengthen the Foster Care Review Board by adding professionals to the board and extending its membership by two members. The Foster Care Review Board was established in 1982 and initially consisted of seven members. Of those seven members, there were two from each congressional district and one at-large member. In 1987, Senator Landis passed legislation that increased the membership to nine members, and specified three of the nine members must be from local foster care review boards. That stays the same in this, in this bill. In 1990, Senator Hartnett passed legislation that specified that one of the remaining six members must be an attorney with legal expertise in child welfare and, again, that is contained in this...remains in the bill, an attorney with guardian ad litem experience. We expand the number by two and include a pediatrician, a child psychologist, a social worker, a representative of a child advocacy group, a child advocacy center director, a director of a court-appointed special advocate program, and a member of the public with a background in business or finance. And the board

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will be directed, as many of our other boards are to the extent possible, to represent three congressional districts equally. That was part of the compromise. When originally introduced, the bill would have contained...would have included the director of the Department of Health and Human Services. That is no longer part of this bill because of concerns raised at the hearing. And I would appreciate your adoption of this amendment, which supports the strengthening of our child welfare system. Thank you.

SENATOR CUDABACK: Thank you, Senator Thompson. Heard the opening on AM0756. Open for discussion. Senator Schimek, followed by Senator Chambers.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I would stand in support of AM0756 and just tell you that the Government Committee did have the hearing. We did advance the bill on a 6 to 1 to 1 vote. We had 1 person absent. And Senator Thompson worked very hard to find a middle ground here, but I think this will bring a little added outside expertise to the board, and I think it just will be kind of like a breath of fresh air. And the committee had a lot of differing viewpoints on this bill, but they all pretty much came together at the end with this compromise. So I would urge the adoption of AM0756.

SENATOR CUDABACK: Thank you, Senator Schimek. Further discussion? Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, if this is going to be done or seriously considered by the Legislature, it shouldn't be done in five or fewer minutes. This is something that I have to be convinced is of value. I have a lot of respect for Senator Thompson, I have a lot of respect for Senator Schimek, but that is not going to be enough to have me accept an amendment such as this without being satisfied in my mind that the membership is what it ought to be or anything else about it, even giving a rationale for changing the number of people and then determining which types of entities or interests will be represented. There should be a rationale given as to why each of these people should be on here. I take the whole realm of foster care very seriously. I

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find some fault with the board, but I also find fault with HHS, with courts, meaning judges, with social workers and right across the board. Because if I would bring up the cases that have been brought to me, I could show that any link in this chain is unfit to remain there, but hard cases make bad law. And I am not going to agree to let this bill move today with this amendment. So how much time do I have left?

SENATOR CUDABACK: You have about...about a minute and a half is gone, Senator Chambers. Three and a half, three and a half is remaining.

SENATOR CHAMBERS: I'm going to give my...the time remaining I have to Senator Thompson, because she's angry with me and the world ought to know it. Come, Senator Thompson, express yourself. (Laughter)

SENATOR CUDABACK: Senator Thompson, you have about three minutes.

SENATOR THOMPSON: Mr. President, I'll withdraw the amendment, and I'm really mad at Senator Chambers and I told him that. (Laughter)

SENATOR CUDABACK: The amendment is withdrawn.

CLERK: I have nothing further on the bill, Senator Flood.

SENATOR CUDABACK: Senator Pederson, did you wish...? Senator Flood. Senator Pederson, did you wish to speak?

SENATOR D. PEDERSON: Yes, I do. I would like to ask Senator Howard a question concerning the underlying bill that now is the bill that we're talking about. Senator Howard.

SENATOR CUDABACK: Senator Howard.

SENATOR HOWARD: Yes.

SENATOR D. PEDERSON: My concern is that I don't see any fiscal note that goes with this particular bill. Are you saying that

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there is no fiscal bill that we're asking for state monies?

SENATOR HOWARD: Well, actually, sir, what we're looking at is fee visiting...are you...

SENATOR D. PEDERSON: Could you speak into the microphone? I can't hear you.

SENATOR HOWARD: Sure. Of course. The portion that refers to the home visitation section, the visiting nurses have been very busy soliciting private funds. They're out there looking at individuals that are willing to contribute to this program, and they've had quite a bit of success, actually. So we're hopeful that we can have enough private funds that if in the future we request funds from the state, we can at least do a matching request.

SENATOR D. PEDERSON: Okay. But at this time you're not asking for any state funds for this program.

SENATOR HOWARD: We didn't include a request for that in the bill, no, sir.

SENATOR D. PEDERSON: Okay. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Nothing further on the bill, Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 264 to E & R for engrossing.

SENATOR CUDABACK: Heard the motion to advance LB 264 to E & R for engrossing. Discussion? Seeing none, all in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, items for the record?

CLERK: Mr. President, a new A bill. (Read LB 684A by title for the first time.) Natural Resources Committee, chaired by Senator Schrock, reports LB 680 to General File, LB 31 indefinitely postponed, LB 390 indefinitely postponed, LB 553 indefinitely postponed; those signed by Senator Schrock. Business and Labor reports LB 739 to General File with

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amendments attached; that signed by Senator Cunningham.

Priority bill designations: Senator Stuthman has selected LB 117 as his priority bill; Senator Loudon, LB 673; Senator Synowiecki, LB 40; Senator Schimek, LB 577; Senator Raikes, Education Committee, LB 129; Senator Raikes, LB 689; Senator Beutler, LB 529; LB 114 by Senator Heidemann; Senator McDonald, LB 332; Senator Landis, LB 753 as the Revenue Committee priority; Senator Stuhr, LB 364 as one of the Retirement Systems priority; LB 111, Senator Bourne; Senator Bourne, as Chair of Judiciary, LB 361 and LB 348; Business and Labor Committee, LB 13; Senator Cornett, LB 478; Senator Smith, LB 70; Senator Cudaback, LB 665; Senator Schrock, as Chair of Natural Resources, LB 120; Senator Chambers, LB 759; and the Executive Board, LR 14CA.

Mr. President, amendments to be printed: Senator Beutler, an amendment to LB 242; Senator Brown to LB 546. (Legislative Journal pages 822-825.)

Priority motion: Senator Cornett would move to adjourn until Monday morning, March 14, at 10:00 a.m.

SENATOR CUDABACK: Heard the motion to adjourn till Monday morning, March 14, 10:00 a.m. All in favor of the motion say aye. Opposed, nay. We are adjourned. Members, have a nice weekend.

Proofed by: GSK